

FEDERAL REGISTER

THE NATIONAL ARCHIVES
OF THE UNITED STATES
1934

VOLUME 4 NUMBER 102

Washington, Friday, May 26, 1939

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT

ADMINISTRATION

[ACP-1938-27]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 24

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended,¹ is hereby further amended as follows:

Section XVIII, "Definitions" is amended by adding at the end of the definition of "Farm" the following:

"All adjacent or nearby farm land under the same ownership which is operated by one person may be considered a farm even though such land is located in more than one State if the Regional Director finds that such land is, in fact, operated as a unit with respect to the rotation of crops."

Done at Washington, D. C., this 24th day of May, 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary.

[F. R. Doc. 39-1794; Filed, May 25, 1939;
9:44 a. m.]

¹ 4 F. R. 2057 DI.

[Order No. 36]

PART 936¹ MARKETING ORDER

ORDER REGULATING THE HANDLING OF FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN THE STATE OF CALIFORNIA*

- § 936.1 Definitions.
- § 936.2 Administrative bodies.
- (a) Designation of Control Committee.
- (b) Nomination of shipper members of the Control Committee.
- (c) Nomination of grower members of the Control Committee.
- (d) Selection of members of the Control Committee.
- (e) Designation of members of commodity committees.
- (f) Nomination of Bartlett Pear Commodity Committee members.
- (g) Nomination of Elberta Peach Commodity Committee members.
- (h) Nomination of Plum Commodity Committee members.
- (i) Procedure for nominating members of various commodity committees.
- (j) Selection of members of various commodity committees.
- (k) Failure to make nominations for committee memberships.
- (l) Alternates.
- (m) Procedure for filling vacancies on committees.
- (n) Organization of committees.
- (o) Removal and disapproval.
- (p) Compensation.
- (q) Funds and other property.
- (r) Powers of Control Committee.
- (s) Duties of Control Committee.
- (t) Powers and duties of each commodity committee.
- § 936.3 Regulation of unfair trade practices and unfair methods of competition.
- § 936.4 Regulation by grades and sizes.
- (a) Recommendation by commodity committee.
- (b) Establishment of regulation period.
- (c) Exemptions.
- (d) Inspection and certification.
- § 936.5 Regulation of daily shipments.
- (a) Definitions.
- (b) Recommendation of regulation.
- (c) Establishment of regulation.

¹ Code of Fed. Regs.
*Sections 936.1 through 936.15 issued under the authority contained in 48 Stat. 31 (1933), 7 U.S.C. § 601 et seq. (1934); 49 Stat. 750 (1935); 50 Stat. 246 (1937), 7 U.S.C. § 601 et seq. (Supp. IV, 1938).

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	Page
Agricultural conservation program bulletin, 1938, Supplement 24	2135
California, order regulating handling of fresh Bartlett pears, plums, and Elberta peaches grown in	2135
TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF:	
Veterans' Administration:	
Hospital and domiciliary care, regulations revised	2145
TITLE 42—PUBLIC HEALTH AND EDUCATION:	
Public Health Service:	
Amendment to Regulations for Government of United States Public Health Service	2146
TITLE 49—TRANSPORTATION AND RAILROADS:	
Interstate Commerce Commission:	
Railroad operation, rules for installation, etc., of systems, devices, and appliances intended to promote safety of	2146

NOTICES

Civil Aeronautics Authority:	
Pan American Airways Co. (Del.), issuance of certificate of public convenience and necessity	2156
Department of Agriculture:	
Agricultural Adjustment Administration:	
Base period to be used for agreement and order regulating handling of fresh Bartlett pears, etc., grown in California	2155
(Continued on next page)	



Published by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. L. 500), under regulations prescribed by the Administrative Committee, with the approval of the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1 per month or \$10 per year; single copies 10 cents each; payable in advance. Remit by money order payable to Superintendent of Documents, Government Printing Office, Washington, D. C.

Correspondence concerning the publication of the FEDERAL REGISTER should be addressed to the Director, Division of the Federal Register, The National Archives, Washington, D. C.

CONTENTS—Continued

Department of Agriculture—Con. Food and Drug Administration:

Hearing on definition and standard of identity for canned foods prepared from one or any mixture of certain vegetables; notice of filing of transcript of evidence, etc. 2156

Foreign-Trade Zones Board:

Foreign-Trade Zone No. 1, Stapleton, Staten Island, N. Y., hearing on proposal to construct additional facilities. 2156

Interstate Commerce Commission:

Fourth-class mail matter, order relative to proposed changes in rates and regulations affecting 2157

Rural Electrification Administration:

Allocation of funds for loans. 2157
Amendment of prior allocations. 2157

(d) Election of type of regulation by shipper.

(e) Reports by shippers.

(f) Allotment percentage.

(g) Determination of allotments at shipping points.

(h) Shipments from assembly points.

(i) Adjustment for shipments by boat.

(j) Prohibition of loading.

(k) Shipment of storage fruit.

(l) Revision and correction of reports.

(m) Exceptions.

§ 936.6 Compliance.

§ 936.7 Exemptions for shipments for charitable and other purposes.

§ 936.8 Expenses and assessments.

(a) Expenses.

(b) Assessments.

§ 936.9 Reports.

(a) Information to Secretary.

(b) Reports to Control Committee.

(c) Reports to committees.

§ 936.10 Effective time and termination.

(a) Effective time.

(b) Termination.

(c) Proceedings after termination.

§ 936.11 Duration of immunities.

§ 936.12 Agents.

§ 936.13 Derogation.

§ 936.14 Liability of committee members.

§ 936.15 Separability.

Whereas, under the provisions of Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (hereinafter referred to as the "act"), it is provided that the Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary") shall, subject to the provisions of the act, issue orders regulating such handling of certain agricultural commodities (including Bartlett pears, plums, and Elberta peaches) as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodities; and

Whereas, the Secretary, having reason to believe that the issuance of an order would tend to effectuate the declared policy of the act with respect to the establishment and maintenance of such orderly marketing conditions for fresh Bartlett pears, plums, and Elberta peaches grown in the State of California as would establish prices to the producers of such fruit at a level that would give such fruit a purchasing power with respect to articles that the producers thereof buy equivalent to the purchasing power of such fruit during the base period, January 1, 1920, to December 31, 1928, both dates inclusive, conducted a public hearing at Sacramento, California, from February 27 to March 4, 1939, both dates inclusive, pursuant to due notice given to all interested parties,¹ on a proposed order regulating such handling of such fruit as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects such commerce in such fruit, at which hearing all interested persons in attendance were afforded due opportunity to be heard concerning the proposed order; and

Whereas, the Secretary has found and proclaimed² that the purchasing power of Bartlett pears, plums, and Elberta peaches grown in the State of California during the period August 1909–July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of such fruit can be satisfactorily determined from available statistics of the Department of Agriculture for the period January 1, 1920, to December 31, 1928, both dates inclusive, and that the period January 1, 1920, to December 31, 1928, both dates inclusive, is the base period to be used in connection with this order in determining the purchasing power of such fruit; and

¹ 4 F.R. 794 DI.

² See page 2155.

Whereas, the Secretary finds upon the basis of the evidence introduced at the hearing and the record thereof:

(1) that customarily a substantial percentage of all shipments of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce;

(2) that at the time of the aforesaid hearing the prices received by the producers of such fruit were at a level that gave such fruit a purchasing power with respect to articles that the producers thereof buy substantially below the purchasing power of such fruit during the base period, January 1, 1920, to December 31, 1928, both dates inclusive;

(3) that the regulation of shipments of such fruit by grades and sizes, as prescribed herein, and the prohibition of unfair trade practices and unfair methods of competition, as provided in this order, and the regulation of daily shipments, subject to the terms and provisions contained in this order, will tend to prevent fluctuation of prices to growers, and will establish and maintain a more stable market for such fruit, and establish prices to the growers of such fruit at a level that will give such fruit a purchasing power with respect to articles that the producers thereof buy equivalent to the purchasing power of such fruit during the base period, January 1, 1920, to December 31, 1928, both dates inclusive;

(4) that the method of regulating shipments of such fruit by prohibiting unfair trade practices and unfair methods of competition, as provided in this order, and the method of regulating shipments of such fruit by grades and sizes, subject to the terms and provisions contained in this order, and the method of regulating daily shipments, in accordance with the terms and provisions of this order, are fair and equitable;

(5) that this order is limited in its application to the smallest regional production area and to the smallest regional marketing area that is practicable, in order to effectuate the declared policy of the act, and that the issuance of several orders applicable to any subdivision of the regional marketing area or regional production area, included in this order, would not effectively carry out the declared policy of the act;

(6) that the terms and provisions of this order prescribe, so far as practicable, such different terms, applicable to different production and marketing areas, as are necessary in order to give due recognition to the differences in production and marketing of such fruit in such areas;

(7) that the pro rata contribution of handlers to the expenses of the administrative agencies created by this order, based upon the quantity of fruit shipped,

as provided in this order, is fair and equitable; and

(8) that this order and all of the terms and provisions of this order are fair and equitable and will tend to effectuate the declared policy of the act, with respect to fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, by establishing and maintaining such orderly marketing conditions therefor as will establish prices to producers thereof at a level that will give such fruit a purchasing power with respect to articles that the producers thereof buy equivalent to the purchasing power of such fruit in the base period, January 1, 1920, to December 31, 1928, both dates inclusive, and by protecting the interest of the consumer by (a) approaching such level of prices, which it is declared in the act to be the policy of Congress to establish, by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to producers above the aforesaid level which it is declared in the act to be the policy of Congress to establish; and

Whereas, the Secretary finds:

(1) that the marketing agreement regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, executed by the Secretary on the 24th day of May 1939, upon which the aforesaid public hearing was held in Sacramento, California, was signed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the fruit covered by this order) who, during the 1937 and 1938 shipping seasons, handled not less than 50 percent of the volume of fresh Bartlett pears, not less than 50 percent of the volume of plums, and not less than 50 percent of the volume of Elberta peaches, grown in the State of California, marketed during said shipping seasons in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect such commerce;

(2) that this order regulates the handling of such fruit in the same manner as the aforesaid marketing agreement, and that this order is made applicable only to persons in the respective classes of industrial and commercial activities specified in the aforesaid marketing agreement;

(3) that the issuance of this order is favored by producers who, during the period from January 1, 1937, to December 31, 1938, both dates inclusive (which is hereby determined to be a representative period), produced for market within the State of California at least two-thirds of the volume of fresh Bartlett pears, and at least two-thirds of the volume of plums, and at least two-thirds of the volume of Elberta peaches produced for market

within such production area within the aforesaid period January 1, 1937, to December 31, 1938, both dates inclusive.

Now, therefore, it is hereby ordered, pursuant to the provisions of the aforesaid act, that such handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such fruit, from and after the date hereinafter specified, shall be in conformity to, and in compliance with, the terms and conditions of this order.

§ 936.1 *Definitions.* As used herein, the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States.

(b) "Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), as amended.

(c) "Person" means any individual, partnership, corporation, association, or any other business unit.

(d) "Fruit" means any and all strains of any and all varieties of plums, grown in the State of California and shipped in fresh form, and any and all strains of Bartlett pears and Elberta peaches grown in the State of California and shipped in fresh form.

(e) "Grower" and "producer" are synonymous and mean any person who produces fruit, as owner or tenant, for sale or shipment in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect such commerce.

(f) "Ship" and "handle" are synonymous and mean, except as used in section 936.5 hereof, to convey in, or handle for shipment in, to ship in or cause to be conveyed or handled for shipment in, or in any other way to put fruit in, the channels of trade by conveying or causing fruit to be conveyed by railroad, truck, boat, or any other means whatsoever (except as a common carrier of fruit owned by another person), in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect such commerce.

(g) "Shipper" and "handler" are synonymous and mean, except as used in section 936.5 hereof, any person (except a common carrier for another person) who ships, or is engaged in shipping, marketing, consigning, or dealing in fruit, either in person or as or through an agent, broker, representative, or otherwise, in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect such commerce.

(h) "Season" means the twelve-month period beginning on April 1 of each year and ending on March 31 of the following year, both dates inclusive.

(i) "Variety" means any subspecies of fruit, such as the Santa Rosa plum.

(j) "Confidential agent" refers to an individual designated by the Control Committee to act as the recipient of confidential information relative to the shipping of fruit by the various shippers.

(k) "Area" means the State of California.

(l) "District" means any of the following subdivisions of the State of California:

(1) "North Sacramento Valley District" includes and consists of Glenn County, Shasta County, Tehama County, Modoc County, Siskiyou County, Lassen County, Plumas County, and Colusa County.

(2) "Central Sacramento Valley District" includes and consists of Sutter County, Butte County, Yuba County, and Sierra County.

(3) "Sacramento River District" includes and consists of Sacramento County, that portion of Yolo County east of a straight line from the northwest corner of Sacramento County to the northeast corner of Solano County, and that portion of Solano County east of a straight line from the northeast corner of Solano County to the town of Rio Vista.

(4) "Eldorado District" includes and consists of Eldorado County.

(5) "Colfax District" includes and consists of Nevada County and that portion of Placer County north and east of a straight line running northwest through the town of Bowman and extending to the Bear River and southeast to the American River.

(6) "Placer District" includes and consists of that portion of Placer County not included in Colfax District.

(7) "Solano District" includes and consists of that portion of Yolo County not included in the Sacramento River District, and that portion of Solano County not included in the Sacramento River District.

(8) "Contra Costa District" includes and consists of Contra Costa County.

(9) "Santa Clara District" includes and consists of Alameda County, Monterey County, Santa Clara County, San Mateo County, Santa Cruz County, and San Benito County.

(10) "Lake District" includes and consists of Lake County.

(11) "North Coast District" includes and consists of Mendocino County, Humboldt County, Trinity County and Del Norte County.

(12) "South Coast District" includes and consists of San Luis Obispo County, Santa Barbara County, Ventura County, and that portion of Los Angeles County south of the Tehachapi Mountains and west of a straight line running from the town of Saugus to Point Fermin.

(13) "Stockton District" includes and consists of San Joaquin County, Amador County, Calaveras County, and Alpine County.

(14) "Stanislaus District" includes and consists of Merced County, Stanislaus County, Tuolumne County, and Mariposa County.

(15) "Fresno District" includes and consists of Madera County, Fresno County, and Mono County.

(16) "Tulare District" includes and consists of Kings County and Tulare County.

(17) "Kern District" includes and consists of that portion of Kern County west of the Tehachapi Mountains.

(18) "Tehachapi District" includes and consists of that portion of Los Angeles County north of the San Gabriel Mountains and north of that portion of Kern County not included in Kern District, and Inyo County.

(19) "Southern California District" includes and consists of San Bernardino County, Orange County, San Diego County, Imperial County, Riverside County, and that portion of Los Angeles County not included in the South Coast District and the Tehachapi District.

(20) "North Bay District" includes and consists of Sonoma County, Napa County, and Marin County.*

§ 936.2 *Administrative bodies—(a) Designation of Control Committee.* A Control Committee is hereby established consisting of twelve (12) shipper members and thirteen (13) grower members, and the members shall be selected in accordance with the provisions hereof. The members shall be selected annually for a term ending on March 1, and said members shall serve until their respective successors are selected and qualified. The initial members of the Control Committee, including both the grower members and the shipper members, shall be selected by the Secretary as soon as reasonably possible after the effective date hereof. In thus selecting the initial members, the Secretary may consider such nominations or suggestions, if any, submitted by growers and shippers, and such nominations or suggestions may be by virtue of elections conducted by groups of growers and groups of shippers prior to, or immediately subsequent to, the effective date hereof. The members of the Control Committee selected subsequent to the initial members shall be selected in accordance with the provisions hereinafter set forth.

(b) *Nomination of shipper members of the Control Committee.* Nominations for the twelve (12) members of the Control Committee to represent shippers, subsequent to the initial members, shall be made in the following manner:

(1) Elective bodies may be formed consisting of any shipper or group of shippers who shipped at least one-third ($\frac{1}{3}$) of the total tonnage of fruit shipped by all shippers during the preceding season. Each elective body shall be entitled to nominate four (4) persons for members. In the event an elective body

is composed of more than one (1) shipper, each such shipper shall cast his vote on the basis of fruit shipped by such shipper during the previous season. Voting shall be cumulative. Shippers who have sufficient tonnage to form one or more elective bodies shall not be entitled to use their additional fractional tonnage, if any, toward the formation of an additional elective body.

(2) In the event all nominations for the shipper membership of the Control Committee are not made by elective bodies, as provided in subparagraph (1) of paragraph (b) of this section, by February 1 of each year, the then existing Control Committee shall promptly announce a time of and place for a meeting of all shippers of fruit who have not individually or collectively formed an elective body nor in any manner participated therein, and such Control Committee shall conduct the election of nominees at such meeting. At said election meeting, such shippers shall select a nominee for each of the aforesaid positions of the Control Committee for which nominees have not been selected pursuant to the provisions of subparagraph (1) of paragraph (b) of this section. In such election, each such shipper shall cast only one (1) vote. No shipper who formed an elective body, or participated therein with another shipper or shippers, shall participate in or vote at such election held pursuant to the provisions of this subparagraph.

(3) No shipper shall be entitled to participate in the nomination of members of the Control Committee, or be eligible for membership on either the Control Committee or the Sales Managers' Committee, if such shipper has failed to pay the assessments, due to be paid by him, pursuant to the provisions hereof.

(c) *Nomination of grower members of the Control Committee.* Nominations for the thirteen (13) members of the Control Committee to represent growers, subsequent to the initial members, shall be made by the commodity committees in the following manner:

(1) A nomination for one (1) member shall be made by each commodity committee selected pursuant to paragraph (j) of this section. Nominations for the remaining members to represent growers shall be made by the respective commodity committees as provided hereinafter. The number of remaining members which each commodity committee shall be entitled to nominate shall be based upon the proportion that the previous three (3) seasons' shipments of the kind of fruit for which the respective commodity committee has been established, pursuant to the provisions hereof, is of the total shipments of all fruit, as defined in paragraph (d) of section 1 hereof, during such previous three (3) seasons: *Provided, however,* That, in the event statistical informa-

tion regarding such shipments is not available for one of the aforesaid three seasons, the nominations shall be based, as aforesaid, on the three seasons, for which statistics are available, next preceding the season during which the nominations are being made.

(2) A person nominated by any commodity committee for membership on the Control Committee shall be an individual person who produced, during the previous season, at least fifty-one (51) percent of the total fruit shipped by him during such season. Each member of each commodity committee shall have only one (1) vote in the selection of nominees for membership on the Control Committee.

(d) *Selection of members of the Control Committee.* From the nominations made by each elective body pursuant to subparagraph (1) of paragraph (b) of this section, or from other persons, the Secretary shall select four (4) members of the Control Committee. From the nominations made pursuant to subparagraph (2) of paragraph (b) of this section, or from other persons, the Secretary shall select the remaining shipper members of the Control Committee. From the nominations made pursuant to paragraph (c) of this section, or from other persons, the Secretary shall select the grower members of the Control Committee. Any person selected as a member of the Control Committee, including but not being limited to those selected as the initial members, shall qualify by filing with the Secretary, or with the designated representative of the Secretary, a written acceptance of the appointment.

(e) *Designation of members of commodity committees.* There is hereby established the Bartlett Pear Commodity Committee consisting of twelve (12) members, and the Plum Commodity Committee and the Elberta Peach Commodity Committee each consisting of seven (7) members. The members of each commodity committee shall be selected annually for a term ending on February 15, and such members shall serve until their respective successors are selected and qualified. The initial members of each commodity committee shall be selected by the Secretary as soon as reasonably possible after the effective date hereof. In making such selections, the Secretary may consider such nominations or suggestions, if any, submitted by growers, and such nominations or suggestions may be by virtue of elections conducted by groups of growers prior to, or immediately subsequent to, the effective date hereof. The members of each commodity committee selected subsequent to the initial members shall be selected in accordance with the provisions hereinafter set forth.

(f) *Nomination of Bartlett Pear Commodity Committee members.* Nominations for membership on the Bartlett Pear Commodity Committee shall be

made by the growers of Bartlett pears, as follows:

(1) One (1) nominee by the growers in the North Sacramento Valley District and Central Sacramento Valley District.

(2) One (1) nominee by the growers in the Placer District.

(3) Three (3) nominees by the growers in the Sacramento River District and Stockton District.

(4) One (1) nominee by the growers in the Solano District.

(5) One (1) nominee by the growers in the Contra Costa District and Santa Clara District.

(6) One (1) nominee by the growers in the Lake District.

(7) One (1) nominee by the growers in the North Coast District and North Bay District.

(8) One (1) nominee by the growers in the Colfax District.

(9) Two (2) nominees by the growers in the Eldorado District and all of the area not included in the North Sacramento Valley District, Central Sacramento Valley District, Colfax District, Placer District, Sacramento River District, Stockton District, Solano District, Contra Costa District, Santa Clara District, Lake District, North Coast District, and North Bay District.

(g) *Nomination of Elberta Peach Commodity Committee members.* Nominations for membership on the Elberta Peach Commodity Committee shall be made by the growers of Elberta peaches, as follows:

(1) Two (2) nominees by the growers in the Fresno District.

(2) One (1) nominee by the growers in the Tulare District and Kern District.

(3) Two (2) nominees by the growers in the Stanislaus District.

(4) One (1) nominee by the growers in the North Sacramento Valley District.

(5) One (1) nominee by the growers in all of the area not included in the Fresno District, Tulare District, Kern District, Stanislaus District, and North Sacramento Valley District.

(h) *Nomination of Plum Commodity Committee members.* Nominations for membership on the Plum Commodity Committee shall be made by the growers of plums, as follows:

(1) Three (3) nominees by the growers in the Colfax District and Placer District.

(2) One (1) nominee by the growers in the Central Sacramento Valley District and Solano District.

(3) Two (2) nominees by the growers in the Fresno District, Tulare District, Kern District, and Southern California District.

(4) One (1) nominee by the growers in all of the area not included in the Colfax District, Placer District, Central Sacramento Valley District, Solano District, Fresno District, Tulare District, Kern District, and Southern California District.

(i) *Procedure for nominating members of various commodity committees.* The nominations for membership on the Bartlett Pear Commodity Committee shall be made by the growers of Bartlett pears in the aforesaid districts who are present in person at a general meeting in each district or districts as specified herein; and at each such meeting each grower of Bartlett pears shall be entitled to cast only one (1) vote on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives. The growers of plums shall select nominees for membership on the Plum Commodity Committee in the same manner and according to the same voting regulations as prescribed in this paragraph regarding the selection of nominees for membership on the Bartlett Pear Commodity Committee. The growers of Elberta peaches shall select nominees for membership on the Elberta Peach Commodity Committee in the same manner and according to the same voting regulations as prescribed in this paragraph regarding the selection of members of the Bartlett Pear Commodity Committee. Nominations for membership on the various commodity committees, selected subsequent to the initial committees, shall be supervised by the then existing Control Committee which shall prescribe, from time to time, such procedure incident to such nominations as shall be reasonable and fair to all persons concerned.

(j) *Selection of members of various commodity committees.* The Secretary shall select the members of each commodity committee, subsequent to the initial members, from nominations made by growers, as provided in this section, or from among other persons. A person nominated or selected for membership on a commodity committee shall be an individual grower who produced, during the previous season, at least fifty-one (51) percent of the fruit shipped by him during such season, or an individual person who represents an organization which produced, during the previous season, at least fifty-one (51) percent of the fruit shipped by it during such season. Any person selected as a member of a commodity committee, including but not being limited to those designated as the initial members, shall qualify by filing with the Secretary, or with the designated representative of the Secretary, a written acceptance of the appointment.

(k) *Failure to make nominations for committee memberships.* In the event nominations are not made for membership on the various commodity committees, pursuant to the provisions of this section, by March 15 of each year, the Secretary may select such members without waiting for nominees to be designated. In the event nominations are not made for membership on the Control Committee, pursuant to the provisions of this section, by April 1 of each year, the Secretary may select such members with-

out waiting for nominees to be designated.

(l) *Alternates.* There shall be an alternate for each member of the Control Committee, and an alternate for each member of each commodity committee. Each such alternate shall possess the same qualifications, shall be nominated and selected in the same manner and shall hold office for the same term, as the member for whom he is alternate. An alternate shall, in the event of such member's absence at a meeting of the committee of which he is a member, act in the place and stead of such member; and, in the event of such member's removal, resignation, disqualification, or death, the alternate for such member shall, until a successor for the unexpired term of said member has been selected, act in the place and stead of said member.

(m) *Procedure for filling vacancies on committees.* To fill any vacancy, which occurs prior to March 1, 1940, occasioned by the failure of any person selected as a member of the Control Committee to qualify, or the death, removal, resignation, or disqualification of any qualified member of the Control Committee prior to March 1, 1940, a successor for his unexpired term shall be selected in the same manner provided in this section for the selection of the initial members of the Control Committee; and to fill any vacancy, which occurs subsequent to March 1, 1940, occasioned by the failure of any person selected as a member of the Control Committee to qualify, or the death, removal, resignation, or disqualification of any qualified member of such committee, a successor for the unexpired term shall be nominated and selected in the same manner provided in this section for the nomination and selection of members of the Control Committee nominated and selected subsequent to the initial members. To fill any vacancy, which occurs prior to February 15, 1940, occasioned by the failure of any person selected as a member of any commodity committee to qualify, or the death, removal, resignation, or disqualification of any qualified member of any commodity committee prior to February 15, 1940, a successor for his unexpired term shall be selected in the same manner provided in this section for the selection of the initial members of any commodity committee; and to fill any vacancy, which occurs subsequent to February 15, 1940, occasioned by the failure of any person, selected as a member of any commodity committee to qualify, or the death, removal, resignation, or disqualification of any qualified member of any such committee, a successor for the unexpired term shall be nominated and selected in the same manner provided in this section for the nomination and selection of members of any commodity committee nominated and selected subsequent to the initial

members. If nomination for any such vacancy on the Control Committee or any commodity committee is not made within twenty (20) days after the beginning of such vacancy, the Secretary may select the successor for the unexpired term without waiting for nomination to be made.

(n) *Organization of committees.* (1) The Control Committee shall not perform any of its duties, or exercise any of the powers herein granted, while there are more than seven (7) vacancies in its membership. A majority of all of the members of the Control Committee shall constitute a quorum; and any action of the Control Committee shall require the concurrence of the majority of all members present at the meeting.

(2) The Bartlett Pear Commodity Committee shall not perform any of its duties, or exercise any of the powers herein granted, while there are more than three (3) vacancies in its membership. None of the other commodity committees, provided for by this section, shall perform any of its respective duties, or exercise any of the powers herein granted, while there are more than two (2) vacancies in its membership. A quorum of the Bartlett Pear Commodity Committee shall consist of eight (8) members; and a quorum of each of the other commodity committees shall consist of five (5) members.

(3) The Control Committee and each commodity committee shall give to the Secretary, or to the designated agent of the Secretary, the same notice of each meeting that is given to the members of the respective committee.

(4) The Control Committee or any commodity committee may, subject to disapproval by the Secretary, provide for, upon due notice to all of the members of the respective committee, voting by letter, telegraph, or telephone: *Provided*, That, any member voting by telephone shall promptly thereafter confirm in writing his vote so cast.

(o) *Removal and disapproval.* The members of the Control Committee, including their respective successors and alternates, and the members of each commodity committee, including their respective successors and alternates, and any agent or employee appointed or employed by the Control Committee, or any other committee established pursuant to the provisions hereof, shall be subject to removal or suspension at any time by the Secretary. Each regulation, decision, determination, or other act of the Control Committee, or any commodity committee, or any other committee established pursuant to the provisions hereof, shall be subject to the continuing right of the Secretary to disapprove of the same at any time; and, upon such disapproval, each such regulation, decision, determination, or other act, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

(p) *Compensation.* The shipper members of the Control Committee, and their respective alternates, shall serve without compensation; but said members, and their respective alternates, shall be reimbursed for expenses necessarily incurred in the performance of their respective duties. The members of each commodity committee and the grower members of the Control Committee may receive compensation not to exceed the amount of five dollars (\$5.00) per diem, for attendance at each meeting, in addition to being reimbursed for necessary expenses incident to attending said meeting.

(q) *Funds and other property.* (1) All funds received by the Control Committee, pursuant to the provisions hereof, shall be used solely for the purposes herein specified; and the Secretary may require the Control Committee and its members to account for all receipts and disbursements.

(2) Upon the death, resignation, removal, or expiration of the term of any member or employee of the Control Committee, or of any member of any commodity committee, all books, records, funds, and other property in his possession belonging to the Control Committee or any commodity committee shall be delivered to the Control Committee or to his successor in office; and such assignments and other instruments shall be executed as may be necessary to vest in the Control Committee full title to all the books, records, funds, and other property in the possession or under the control of such member or employee, pursuant to the provisions hereof.

(3) The Control Committee may, with the approval of the Secretary, maintain in its own name, or in the name of its members, a suit against any shipper for the collection of such shipper's pro rata share of expenses, pursuant to the provisions hereof.

(r) *Powers of Control Committee.* The Control Committee shall have the following powers:

(1) to administer, as herein specifically provided, the terms and provisions hereof;

(2) to make administrative rules and regulations in accordance with and to effectuate the terms and provisions hereof;

(3) to receive, investigate, and report to the Secretary complaints of violations of the provisions hereof; and

(4) to recommend to the Secretary amendments hereto.

(s) *Duties of Control Committee.* The Control Committee shall have the following duties:

(1) to act as intermediary between the Secretary and any grower or shipper;

(2) to keep minute books and records which will clearly reflect all of the acts and transactions of said Control Committee; and such minute books and records shall be subject at any time to

examination by the Secretary or by such person as may be designated by the Secretary;

(3) to investigate, from time to time, and assemble data on the growing, shipping, and marketing conditions respecting fruit, as defined herein, grown in the State of California; and to furnish to the Secretary such available information as may be requested;

(4) to employ a manager, who shall also act as secretary of all committees provided for herein, and such other employees as it may deem necessary; and to determine the salaries and define the duties of any and all such employees;

(5) to perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of Section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public Act No. 320, 74th Congress, approved by the President on August 24, 1935, as amended;

(6) to submit at the beginning of each season to the Secretary, for his approval, a budget of its expenses;

(7) to confer with representatives of shippers and growers of fruit produced in other states and areas with respect to the formulation or operation of marketing agreements providing for the regulation of shipments among the several states and areas in the United States in which such fruit is grown;

(8) to establish a Sales Managers' Committee of seven (7) members, the members of which shall be selected by the shipper members of the Control Committee, and no sales manager or other person shall be eligible for membership on the Sales Managers' Committee unless the organization he represents has paid the assessments, due by it, pursuant to section 936.8 hereof, and at least one member shall be the representative of a cooperative marketing association; the Sales Managers' Committee may attend each commodity committee meeting to consider (i) regulation of unfair trade practices pursuant to section 936.3 hereof, or (ii) regulation by grades and sizes pursuant to section 936.4 hereof, or (iii) regulation of daily shipments pursuant to section 936.5 hereof;

(9) to establish and define the duties of additional committees or subcommittees or subcommittees to assist in the performance of any of the duties and functions of the Control Committee;

(10) to disapprove, if it deems proper, any action or recommendation of any commodity committee: *Provided*, That, such disapproval must be by the affirmative vote of at least seventeen members of the Control Committee, and the reasons for such disapproval shall be immediately submitted to the Secretary;

(11) with the approval of the Secretary, to redefine the districts into which the State of California has been divided hereby or change the representation of any district on any commodity committee: *Provided, however*, That, if any of such changes are made representation

on any such committee from the various districts shall be based, so far as practicable, upon the proportionate quantity of the respective fruit shipped from the respective districts during the preceding three seasons: *Provided, however, That,* in the event statistical information regarding such shipments is not available for one of the aforesaid three seasons, the nominations shall be based, as aforesaid, on the three seasons, for which the shipments are available, next preceding the season during which the nominations are being made;

(12) to defend all legal proceedings against any committee members (individually or as members) or any officers or employees of such committees arising out of any act or omission made in good faith pursuant to the provisions hereof; and

(13) to cause the books of the Control Committee to be audited by a competent accountant at least once each season and at such other time or times as the Control Committee may deem necessary or as the Secretary may request. Such audit shall indicate whether the funds have been received and expended in accordance with the provisions hereof.

(t) *Powers and duties of each commodity committee.* Each commodity committee shall have the following powers and duties:

(1) with regard to the respective fruit for which it was established, to recommend to the Secretary regulation of shipments pursuant to the provisions hereof, and to possess such other powers and exercise such other duties as will properly effectuate the purposes hereof: *Provided, however, That,* the Bartlett Pear Commodity Committee shall make said recommendation pursuant to section 936.4 and section 936.5 hereof only upon the affirmative vote of not less than eight members of said committee: *Provided further, That,* such recommendation pursuant to section 936.4 hereof can be made by each of the other commodity committees only upon the affirmative vote of not less than five members of the respective committee;

(2) to make such rules and regulations with respect to fruit for which it was established as may be necessary to effectuate the terms and provisions hereof;

(3) to submit, at the beginning of each season, a budget of its expenses to the Control Committee for the approval of the Control Committee;

(4) to forward to the Control Committee and to the Secretary a record of the minutes of each meeting of the commodity committee;

(5) to establish a Growers' Advisory Committee in each district composed of growers in the respective district, said committee is to be selected, by growers in the respective district, pursuant to rules and regulations adopted by the Control Committee and approved by the Secretary; and said committee is to consult

with and advise the respective commodity committees; and

(6) to establish such other committees to aid the commodity committee in the performance of its duties hereunder as may be deemed advisable.*

§ 936.3 *Regulation of unfair trade practices and unfair methods of competition.* The shipment of Elberta peaches packed in such manner as to be deceptive regarding the quantity of fruit therein, and the shipment of Elberta peaches in packages, or other containers, that are deceptive regarding the quantity of fruit in such packages or other containers, are unfair trade practices and unfair methods of competition; and the shipment of Elberta peaches packed as aforesaid, or in packages or containers as aforesaid, is prohibited. The Secretary may, from time to time, issue an order or orders specifying or describing packs, packages, or containers that are deceptive regarding the quantity of fruit therein, and are, therefore, prohibited by the provisions of this section as being unfair trade practices and unfair methods of competition. A copy of each order, issued by the Secretary pursuant to this section, shall be forwarded promptly to the Elberta Peach Commodity Committee; and thereupon said committee shall give such notice thereof as may be reasonably calculated to bring such order to the attention of all interested parties.*

§ 936.4 *Regulation by grades and sizes—(a) Recommendation by commodity committee.* Whenever a commodity committee deems it advisable to regulate the shipment of any grade or size of any variety or varieties of fruit, for which the respective commodity committee has been established, it shall so recommend to the Secretary. In the event that the commodity committee makes a recommendation to the Secretary, with regard to regulation by grades or sizes, the commodity committee shall furnish to the Secretary the information and facts on which such recommendation is predicated, including, but not being limited to, information with respect to the factors affecting the supply of and demand for the respective fruit by grades and sizes thereof; and such commodity committee shall furnish to the Secretary such additional information as may be requested.

(b) *Establishment of regulation period.* Based upon the aforesaid recommendation and information furnished by the commodity committee, or upon other information available to the Secretary, the Secretary shall limit, if he finds that such limitation would tend to effectuate the declared policy of the act, the total quantity of any grade and size, or either thereof, of any variety or varieties of fruit which may be shipped during any period from any or all districts. When the Secretary determines to regulate shipments as provided in this section, he shall immediately notify the respective commodity committee of the determi-

nation made by him pursuant to the provisions of this section; and the commodity committee shall give such notice thereof as may be reasonably calculated to bring such determination to the attention of all interested parties.

(c) *Exemptions.* In the event of a regulation of shipments pursuant to the provisions of this section, the commodity committee shall, whenever it finds that one-half ($\frac{1}{2}$) of the estimated shipments for the marketing season of any variety or varieties of fruit so regulated in any district or districts has been shipped, announce the procedural rules, adopted by the respective commodity committee and approved by the Secretary, pursuant to which exemption certificates will be issued to growers, or said commodity committee may, prior to such time, announce said procedural rules pursuant to which exemption certificates will be issued to growers. Whenever the commodity committee finds that one-half ($\frac{1}{2}$) of the estimated shipments for the marketing season of any variety or varieties of fruits so regulated in any district or districts has been shipped, it shall, thereupon and thereafter, or prior thereto it may, grant an exemption certificate to any grower who submits proof satisfactory to such committee to the effect that he will be prevented because of such regulation from shipping as large a percentage of his crop of such variety of fruit as the average of all growers of such variety or varieties in his district. Such exemption certificate shall permit the respective grower to whom the certificate may be issued to ship a quantity of the restricted or prohibited grades and sizes sufficient to permit him to ship as large a proportion of his crop of such variety of fruit as the average for all growers in his district. If any grower is dissatisfied with the determination of the commodity committee with respect to such certificate, or the application for an exemption certificate, such grower may appeal to the Secretary: *Provided, That,* such appeal must be taken promptly after the determination by the commodity committee. Upon an appeal as aforesaid to the Secretary, the Secretary may modify or cancel the issuance of an exemption certificate or may authorize the issuance of an exemption certificate. The authority of the Secretary to supervise and control the issuance of exemption certificates is unlimited; and any determination made by the Secretary with respect to an exemption certificate, or the application for an exemption certificate, shall be final.

(d) *Inspection and certification.* Upon the recommendation of the commodity committee, or other information available to the Secretary, the Secretary may require that all shipments of fruit made during a regulation period, established pursuant to the provisions of this section, shall be inspected and certified on the basis of grades and sizes. In the event of such requirement each shipper, prior to making a shipment of fruit, shall have the fruit included in

each such shipment inspected by a duly authorized representative of an inspection service, designated by the respective commodity committee and approved by the Secretary; and each such shipper shall submit promptly, or cause to be submitted promptly, to the respective commodity committee shipping point inspection certificates issued by such inspection service stating the grade and size of fruit in each such shipment.*

§ 936.5 *Regulation of daily shipments*—(a) *Definitions*. As used in this section, the following terms have the following meanings:

(1) "Railroad assembly point" means any railroad shipping point designated by the respective commodity committee and approved by the Secretary.

(2) "Cold storage assembly point" means any cold storage plant in the State of California.

(3) "Shipping point" means any point, in the State of California, from which fruit is shipped by railroad or truck.

(4) "Arrive" or "arrival" means (i) the actual time of arrival of a car of fruit at a railroad assembly point, if such car is not pre-cooled at such assembly point, (ii) the actual time when pre-cooling is completed if the car of fruit is pre-cooled at the railroad assembly point, or (iii) such time subsequent to the actual delivery of a car of fruit, or the equivalent thereof, at a cold storage assembly point as the commodity committee for such fruit may prescribe by rules and regulations approved by the Secretary.

(5) "Cold storage" means retention of fruit under refrigeration in a storage warehouse for such period of time, at such place, and under such conditions as the commodity committee may prescribe by rules and regulations approved by the Secretary.

(6) "Available" means (i) when used with reference to the fruit of a shipper whose fruit is being regulated at assembly point, the quantity of fruit controlled by him arriving, on a particular day, at any or all assembly points such day, (ii) when used with reference to the fruit of a shipper whose fruit is being regulated at shipping point, the quantity of fruit which he controls packed by or for him for interstate shipment and foreign shipment on the Continent of North America on such particular day.

(7) "Total available" means the quantity of fruit available for shipment on a particular day by all shippers whose shipments are regulated at shipping points plus the quantity of fruit, arriving on such particular day at all assembly points, controlled by all shippers electing regulation at assembly points.

(8) "Fruit controlled" means fruit to which the shipper has legal title or fruit which the shipper has been authorized by the owner to ship.

(9) "Ship" and "market" are synonymous and mean to convey in, or handle for shipment in, to ship or cause to be

conveyed or handled for shipment in, or in any other way to put fruit in, the channels of trade by conveying or causing fruit to be conveyed by railroad, truck, boat, or any other means whatsoever (except as a common carrier of fruit owned by another person), in the current of interstate or foreign commerce on the Continent of North America, or so as directly to burden, obstruct, or affect such commerce.

(10) "Shipper" and "handler" are synonymous and mean any person who ships, or is engaged in shipping, marketing, consigning, or dealing in fruit, either in person or as or through an agent, broker, representative, or otherwise, in the current of interstate or foreign commerce on the Continent of North America, or so as directly to burden, obstruct or affect such commerce.

(11) "Fruit," as the term is used in this section, means any and all strains of Bartlett pears, and any and all strains of any and all varieties of plums, grown in the State of California and shipped in fresh form.

(12) "Car of fruit" or "carload of fruit" means such quantity of fruit as may be specified in the rules and regulations adopted by the respective commodity committee and approved by the Secretary.

(b) *Recommendation of regulation*. The commodity committee established for a particular fruit may, during the effective time of a regulation established pursuant to section 936.4 hereof, recommend, from time to time, to the Secretary the establishment of a period of time during which the daily shipments of any or all varieties of such fruit will be regulated. Such recommendation shall specify the period of time for regulation, the advisable daily shipments during such period, and the variety or varieties of fruit to which the regulation shall be applicable; and the Secretary shall be furnished with the information upon which each such recommendation is predicated: *Provided*, That the establishment of any one or all of the regulations pursuant to the provisions of this section must be, insofar as plums may be concerned, upon recommendation approved by the affirmative vote of not less than six (6) members of the Plum Commodity Committee.

(c) *Establishment of regulation*. If upon the basis of such information and recommendation pursuant to the provisions of subparagraph (b) of this section, or upon other information available to the Secretary, the Secretary shall find that the limitation of daily shipments, as provided in this section, during a regulation period will tend to effectuate the declared policy of the act, he shall establish a regulation period and determine the total advisable quantity of such fruit to be shipped daily to all markets, outside of the State of California and on the Continent of North America, during such period; and the Secretary shall promptly notify the respective commodity commit-

tee of the establishment of the regulation period. The commodity committee shall give such notice of the establishment of the regulation period as may be reasonably calculated to bring such regulation to the attention of all interested persons. A shipper who has made no shipment from a particular district during the particular season, and who elects regulation at shipping points as provided in this section, may apply to the commodity committee for exemption from regulations pursuant to this paragraph of this section. The commodity committee shall, if it finds that the shipper who has made such application would otherwise be unable to begin operations in said district, exempt such shipper from such regulation pursuant to this paragraph of this section for a period not to exceed seventy-two (72) consecutive hours following the packing of the first fruit by such shipper in such district.

(d) *Election of type of regulation by shipper*. Each shipper desiring to ship fruit, during a regulation period, shall promptly elect whether such fruit shall be regulated at railroad assembly points, cold storage assembly points, or shipping points; and each shipper shall promptly advise the respective commodity committee with regard to the choice thus made by the respective shipper. The fruit of any shipper who fails to make such election shall be regulated at railroad assembly points and cold storage assembly points. Except as provided herein, any shipper electing regulation at assembly points, for fruit from any particular shipping point, shall not be eligible to elect regulation at any such shipping point until all of such fruit at the assembly points has been released. Each shipper whose fruit is regulated at railroad assembly points shall file with the carrier an order directing it to stop each carload of the respective shipper's fruit at such assembly points until the release of such fruit has been ordered by the respective commodity committee.

(e) *Reports by shippers*. Each shipper whose fruit is regulated at cold storage assembly points shall report or authorize the cold storage companies to report to the commodity committee, established for such fruit, the time when each carload, or the equivalent thereof, of such fruit controlled by him entered a cold storage assembly point. Each shipper shall furnish or authorize the cold storage companies to furnish to the commodity committee, established for such fruit, the time of entrance into cold storage of each carload, or the equivalent thereof, of such fruit controlled by him.

(f) *Allotment percentage*. The allotment percentage for a particular fruit for a particular day, during a regulation period established pursuant to the provisions of this section, shall be the percentage obtained by dividing the total advisable quantity of such fruit to be shipped that day, determined by the Secretary pursuant to the provisions of paragraph (c) of this section, by the

total available of such fruit on the second day prior to such particular day, as computed by the respective commodity committee pursuant to the provisions of this section. The allotment percentage shall be calculated by the respective commodity committee: *Provided*, That in the event the allotment percentage for a particular day cannot be calculated, pursuant to the foregoing provisions of this paragraph, the allotment percentage for the first previous day on which an allotment percentage can be calculated, pursuant to the provisions of this paragraph, shall be used in calculating allotments for such particular day.

(g) *Determination of allotments at shipping points.* The allotment of such fruit, for a particular day, for any shipper who has elected to have his shipments regulated at shipping points, shall be the result obtained by applying the allotment percentage for such day, calculated as provided in this section, to such shipper's component part of the available used in determining the allotment percentage. No shipper whose fruit is regulated at shipping points shall ship from shipping points fruit in excess of his allotment: *Provided, however*, That the shipment of less than one (1) carload in excess of a shipper's allotment shall not be a violation of the provisions hereof if such shipper advises the respective commodity committee, with regard to such overshipment, by not later than the end of the day following the day on which such overshipment was made. The quantity of fruit shipped in excess of the allotment, as permitted pursuant to the provisions of this paragraph, shall be offset by a reduction of an equal amount from the respective shipper's allotment for the day following the day on which the respective commodity committee received information regarding an overshipment, or, if such allotment is less than the overshipment, then such excess shipment shall be deducted from succeeding allotments until such excess shipment has been entirely offset. If any shipper ships less than his allotment for a particular day, such shipper may ship, only during the next day in which such shipper is entitled to an allotment, a quantity equal to such undershipment in addition to his allotment: *Provided*, That such undershipment is reported to the respective commodity committee within such period of time as may be prescribed by the commodity committee and approved by the Secretary. The commodity committee shall determine, pursuant to the provisions hereof, each shipper's allotment, and advise each shipper relative to his allotment. Except as provided in this paragraph and in paragraph (c) of this section, and section 936.7 hereof, no shipper shall ship fruit in excess of his allotment. The commodity committee, may, at such time and in such manner as it may prescribe in rules and regulations approved by the Secretary, require

any shipper to account to it for the disposition of the quantity of fruit in excess of the respective shipper's allotment. Fruit shipped pursuant to allotments at shipping points shall not be detained at assembly points.

(h) *Shipments from assembly points.* The quantity of fruit which may be shipped, on any day during a regulation period, except the first two days thereof, from all assembly points by shippers who have not elected to have their fruit regulated at shipping points shall be the total advisable quantity to be shipped that day, determined by the Secretary pursuant to the provisions of paragraph

(c) of this section, less (1) the quantity of fruit shipped pursuant to paragraph (g) of this section by shippers electing regulation at shipping points and arriving at railroad assembly points in time to depart that day, and (2) the quantity of fruit which was shipped by boat, to destinations on the Continent of North America, by all shippers on such prior day as the respective commodity committee may prescribe in rules and regulations approved by the Secretary: *Provided*, That if the quantity of fruit that is actually shipped on a particular day is in excess of or less than the quantity advisable for shipment on the respective day then, in such event, the quantity shipped on the following day shall be increased or decreased respectively by the amount of such excess shipment or undershipment: *Provided further*, That the quantity of fruit which may be shipped on each of the first and second days of the regulation period from all assembly points by shippers who have not elected to have their fruit regulated at shipping points shall be that quantity which is the result of the application of the percentage, obtained by dividing the total quantity of fruit shipped by such shippers during the second day prior thereto by the quantity shipped by all shippers during such prior day, to the quantity advisable to be shipped on the first and second days, respectively, of the regulation period. The first carload of fruit arriving at any assembly point and subject to regulation thereat shall be the first carload released for shipment from all assembly points on any particular day, and succeeding carloads shall be released for shipment in the order of arrival until the total quantity for the particular day has been released. The maximum time that cars may be held in assembly points shall be prescribed by the commodity committee in rules and regulations approved by the Secretary: *Provided*, That no car shall be held at any assembly point longer than four (4) days whenever there are any cars being regulated at railroad assembly points: *Provided further*, That fruit shipped pursuant to allotments at shipping points shall not be detained at assembly points. Whenever any shipper has one or more carloads of fruit at an assembly point or points which have priority of shipment

at a given time, and such shipper also has other carloads which do not have priority, such shipper may substitute any carload without priority for any carload having such priority. The respective commodity committee shall, in accordance with the provisions hereof, release fruit, subject to regulation at assembly points, for shipment from assembly points; and fruit, subject to regulation at assembly points, shall not be shipped from any railroad assembly point or cold storage assembly point until it has been released by the respective commodity committee.

(i) *Adjustment for shipments by boat.* If a shipper whose fruit is regulated at assembly point ships by boat a quantity of fruit to a destination on the Continent of North America, the commodity committee shall, on such day or days prior to the expected arrival of the boat at its destination as may be specified in the rules and regulations adopted by the respective commodity committee and approved by the Secretary, adjust the priority of time of release of carloads then in assembly points so that no carload of such shipper's fruit then in assembly points shall be shipped until a quantity of fruit entering assembly points subsequently to the aforesaid carload, equal to the quantity of fruit contained in said shipment by boat, has been permitted to be shipped.

(j) *Prohibition of loading.* The Secretary may, in order to effectuate the declared policy of the act, prohibit for a period of forty-eight (48) hours, upon the recommendation of the respective commodity committee supported by the specific information upon which such recommendation is based, or upon the basis of other information available to the Secretary, the loading of fruit for shipment to any or all railroad assembly points: *Provided*, That there shall elapse not less than ninety-six (96) hours between the last day of one prohibition period, established pursuant to the provisions of this section, and the first day of the next succeeding prohibition period. Any quantity of fruit loaded for shipment to any cold storage assembly point, during a prohibition period, shall not be eligible for release for shipment, except as provided in paragraph (k) of this section, during such time as said fruit or fruits are being regulated pursuant to the provisions of this section. No shipper who shipped fruit to any or all assembly points during the forty-eight (48) hours prior to the beginning of a prohibition period, established pursuant to the provisions of this paragraph, shall, for a period of forty-eight (48) hours succeeding the termination of the respective prohibition period, ship fruit to assembly points in excess of the quantity of such fruit shipped by the respective shipper during the period of forty-eight (48) hours immediately prior to the beginning of such prohibition period: *Provided*, That any shipper who has made no shipments from a particular

district, during the particular season, before the beginning of a prohibition period, established pursuant to the provisions of this paragraph, may apply to the respective commodity committee for exemption from such restrictions applicable after the termination of such prohibition period, and, if said commodity committee determines that said restrictions operate inequitably to said shipper in a particular district, said commodity committee shall exempt such shipper from such restrictions, after a prohibition period, as are provided in this paragraph.

(k) *Shipment of storage fruit.* Fruit in cold storage shall not be shipped on any particular day during a regulation period, established pursuant to the provisions of this section, unless the quantity of fruit regulated at shipping points and arriving at railroad assembly points in time to depart during the particular day plus the quantity of the fruit eligible for release at assembly points during said particular day is less than the total advisable quantity of the fruit for shipment on said day. When the aforesaid conditions exist, such fruit may be released from cold storage for shipment, during a regulation period, in the same sequence as that in which such fruit has been placed in storage: *Provided*, That such releases for shipment from cold storage on any day shall be limited to the amount of the fruit advisable to be shipped, pursuant to the provisions of this section, less the quantity of the fruit regulated at shipping points and arriving at railroad assembly points in time to depart during the particular day and the quantity of the fruit eligible for release at assembly points on said particular day: *Provided further*, That any quantity of fruit in cold storage may be substituted for the same quantity of fruit eligible to be shipped pursuant to the regulation at shipping points or assembly points.

(l) *Revision and correction of reports.* The respective commodity committee may investigate and check the accuracy of any reports filed pursuant to the provisions of this section, and said committee may verify the same in such manner as it may determine; and, on the basis of the findings by said committee, it may revise and correct any such report. Each commodity committee shall prescribe regulations, subject to modification and approval of the Secretary, which provide a reasonable means whereby any grower who may be dissatisfied with the action taken by the respective commodity committee may protest to that committee, or its representatives, concerning the action taken by said committee; and in the event of such protest, the action taken by the committee shall be reconsidered and revised to any such extent as the committee may find to be proper. Such regulations shall further provide a reasonable means whereby the person thus protesting may appeal to the Secretary from the committee's final decision on said protest;

and the Secretary's determination on such appeal shall be conclusive and final.

(m) *Exceptions.* Cars containing two hundred (200) standard packages (as specified in the Agricultural Code of California) or less, or the equivalent thereof in weight, of a fruit covered by a regulation pursuant to the provisions of this section shall be exempt from such regulation: *Provided*, That, such exempted fruit shall be grown in the district from which it is shipped or shipped from a district in which no such fruit is being harvested during the period of such regulation.*

§ 936.6 *Compliance.* Each shipper must comply with all regulations. No shipper shall ship fruit in violation of the provisions of this instrument or in violation of an order issued by the Secretary pursuant to the provisions of this instrument.*

§ 936.7 *Exemptions for shipments for charitable and other purposes.* Nothing contained in this instrument shall be construed to authorize any limitation on the right to ship fruit in any amount for canning, freezing, drying, conversion into by-products, or for charitable or unemployment relief purposes.*

§ 936.8 *Expenses and assessments—*
(a) *Expenses.* The Control Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out the functions of the Control Committee and commodity committees pursuant to the provisions hereof. The funds to cover such expenses shall be acquired by the levying of assessments as hereinafter provided.

(b) *Assessments.* Each shipper shall pay to the Control Committee upon demand such shipper's pro rata share, as is approved by the Secretary, of the general overhead expenses during each season for the maintenance and functioning of the Control Committee and commodity committees for general overhead expenses for all fruits during the season as set forth herein. Each shipper who ships fruit, the shipment of which is being regulated pursuant to any of the sections hereof designated as sections 936.3, 936.4, and 936.5, shall also pay to the Control Committee, upon demand, such shipper's pro rata share, as is approved by the Secretary, of the expenses incurred in administering the regulations set forth in said sections 936.3, 936.4, and 936.5 hereof for the particular fruit so regulated. Each shipper's pro rata share of the general administrative expenses shall be that proportion thereof which the total quantity of fruit shipped by such shipper during said season is of the total quantity of such fruit shipped by all shippers during said season. Each shipper's pro rata share of the expenses necessary in the administration of regulations pursuant to sections 936.3, 936.4, and 936.5 hereof for a particular fruit, as approved by the Secretary, shall be that proportion thereof which the total quantity of such fruit shipped by such shipper during the season is of the total

quantity of such fruit shipped by all shippers during the season. In order to provide funds to carry out the functions of the Control Committee and commodity committees prior to the commencement of shipments in any season, shippers may make advance payments of assessments, which advance payments shall be credited to such shippers and the assessments of such shippers shall be adjusted so that such assessments are based upon the quantity of fruit shipped by such shippers during such season. Any shipper who ships fruit for the account of a grower may deduct, from the account of sale covering such shipment or shipments, the amount of assessment levied on said fruit shipped for the account of such grower. At the end of each season the Control Committee shall credit each contributing shipper with the excess of the amount paid by such shipper above his pro rata share of the expenses, or debit such shipper with the difference between his pro rata share and the amount paid by such shipper. Any such debits shall become due and payable upon the demand of the Control Committee. The Control Committee shall, from funds acquired pursuant to this section, pay the salaries of the employees of the Control Committee and the expenses necessarily incurred in the maintenance and functioning of the Control Committee and commodity committees in the performance of their duties pursuant to the provisions hereof.*

§ 936.9 *Reports—*(a) *Information to Secretary.* All shippers shall severally from time to time, upon request of the Secretary, furnish such information as the Secretary finds to be necessary to enable him to ascertain and determine the extent to which the provisions hereof have been carried out or have tended to effectuate the purposes of the act, and with such other information as he finds to be necessary to determine whether or not there has been an abuse of the privilege of exemption from the anti-trust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary.

(b) *Reports to Control Committee.* Upon the request of the Control Committee, made with the approval of the Secretary, each shipper shall furnish to the Control Committee, in such manner and at such times as it prescribed, such information as will enable it to perform its powers and duties.

(c) *Reports to committees.* For the purpose of enabling the Control Committee and the commodity committees to perform their respective functions hereunder, each shipper shall furnish, or authorize any or all railroad companies and transportation companies to furnish to the confidential employee of the Control Committee, complete daily information, in such form and at such times and substantiated in such manner as shall be prescribed by the commodity committee and approved by the Secre-

tary, with regard to each shipment of fruit. Such reports may include the number of cars ordered, the time of departure of each shipment of fruit from the specified railroad points, the time of shipment of each car of fruit, the name of the shipper, the car number, the number of packages of fruit or the equivalent thereof in weight in each shipment, the kind, variety, grade, and size of fruit, the grower for whom such fruit is shipped, the point of origin, the destination and routing, and any diversion of the shipment of any carload of fruit made through any or all agencies. Such information shall be compiled daily by the confidential employee and promptly made available each day in summary form to all shippers and other interested persons: *Provided, however, That, such compilation or summary shall not reveal the identity of the individual informants, shippers, and growers. Such confidential employee shall not disclose any information that may be obtained pursuant to this subparagraph except in the aforesaid manner.**

§ 936.10 *Effective time and termination*—(a) *Effective time.* The provisions hereof shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways hereinafter specified: *Provided, however, That, the provisions hereof may be made effective and applicable by the Secretary with regard to fresh Bartlett pears, plums, and Elberta peaches, jointly or severally, and the failure to make the provisions hereof effective and applicable to one or two of said fruits shall not prevent the Secretary from making the provisions hereof effective and applicable with regard to the other fruit or fruits.*

(b) *Termination.* (1) The Secretary may at any time terminate the provisions hereof by giving at least one (1) day's notice by means of a press release or in any other manner which the Secretary may determine.

(2) The Secretary shall terminate the provisions hereof, as to a particular fruit covered hereby, whenever he finds by referendum or otherwise that such termination is favored by a majority of the growers of such fruit, who, during the current marketing season for such fruit, have been engaged in the production of such fruit, in the area covered hereby, for shipment in fresh form: *Provided, That, such majority have, during such season, produced for shipment in fresh form more than fifty (50) percent of the volume of such fruit, produced within the area for shipment in fresh form: Provided, That, such termination shall be and become effective on the first day of March subsequent to the announcement thereof by the Secretary: Provided further, That, the Secretary shall hold such a referendum within the period beginning December 1,*

1940, and ending February 1, 1941, and also within the same two-months period of every second marketing season after the 1940 marketing season. The marketing season for all fruits shall be April 1 of one year until March 31 of the following year.

(3) The provisions hereof shall terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Proceedings after termination.* Upon the termination hereof, the members of the Control Committee then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the said committee, of all funds and property then in the possession of or under the control of the Control Committee, including but not being limited to claims for any funds unpaid or property not delivered at the time of such termination. The said trustees shall continue in such capacity until discharged by the Secretary and shall from time to time account for all receipts and disbursements and deliver all funds and property on hand, together with all books and records of the Control Committee and the joint trustees, to such person as the Secretary shall direct, and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds and claims vested in the Control Committee or the joint trustees pursuant to the provisions hereof; and the said trustees shall refund to each contributing shipper the excess of the amount paid by such shipper above his pro rata share of expenses, or debit each shipper with the difference between his pro rata share and the amount paid by any such shipper if such amount is less than his pro rata share. Any such debit shall become due and payable upon the demand of the said trustees. Nothing stated herein shall be deemed to preclude the bringing of a suit for assessments levied by the Control Committee at any time prior to the termination hereof. Any person to whom funds, property, or claims have been delivered by the Control Committee or its members upon direction of the Secretary, as herein provided, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are hereinabove imposed upon the members of said committee or upon said joint trustees.*

§ 936.11 *Duration of immunities.* The benefits, privileges, and immunities conferred by virtue of the provisions hereof shall cease upon its termination except with respect to acts done under and during the time the provisions hereof are in force and effect.*

§ 936.12 *Agents.* The Secretary may by a designation in writing name any person, including any officer or employee of the Government or any Bureau or Division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.*

§ 936.13 *Derogation.* Nothing contained herein is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, and in accordance with such powers to act in the premises whenever such action is deemed advisable.*

§ 936.14 *Liability of committee members.* No member of the Control Committee, or any commodity committee, or any subcommittees, or any employee of the Control Committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any shipper or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or employee, except for acts of dishonesty.*

§ 936.15 *Separability.* If any provision hereof is declared invalid or the applicability thereof to any person, circumstance, thing, or any particular kind of fruit is held invalid, the validity of the remainder hereof or the applicability thereof to any other person, circumstance, thing, or kind of fruit shall not be affected thereby.

In witness whereof, H. A. Wallace, Secretary of Agriculture of the United States, acting pursuant to the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this order under his hand and the official seal of the United States Department of Agriculture in the city of Washington, District of Columbia, on the 24th day of May 1939, and declares this order to be effective, with regard to fresh Bartlett pears, plums, and Elberta peaches, grown in the State of California, on and after 12:01 a. m., e. s. t., May 29, 1939.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-1797; Filed, May 25, 1939;
11:28 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

VETERANS' ADMINISTRATION

REVISION OF REGULATIONS

HOSPITAL AND DOMICILIARY CARE¹

§ 6.6047 *Eligibility of Ex-Members of the military or naval forces for hospital or domiciliary care.* Within the limits of Veterans' Administration facilities, hospital or domiciliary care may be furnished the following applicants, in the specified order of preference:

(a) Hospital treatment for: (1) Veterans who served during the period of

¹ 3 F.R. 3019 DI.

the World War as defined in paragraphs I and IV of Section 8.10, or in any war prior to the Spanish-American War, or during the Spanish-American War, Philippine Insurrection or Boxer Rebellion from April 21, 1898 to July 4, 1902 (or to July 15, 1903 if they served in Moro Province), who were honorably discharged from their last period of war service, and who are suffering from injuries or diseases incurred or aggravated in line of duty in the active military or naval service, and for which they are in need of hospital treatment.

(2) Persons included in paragraph III of Sec. 8.011, who are suffering from injuries or diseases incurred in line of duty, for which they are receiving disability compensation, and for which they are in need of hospital treatment.

(c) (1) Hospital or domiciliary care, including emergency or extensive hospital treatment for: Veterans who served during a period of war as defined in subparagraph (a) (1), who have an honorable discharge from their last period of war service; who served in the active military or naval service for 90 days or more, or who, having served for less than 90 days, were discharged for disability incurred in line of duty; who are suffering from a permanent disability, tuberculosis or neuropsychiatric ailment or such other conditions requiring emergency or extensive hospital treatment; and who are incapacitated from earning a living, and have no adequate means of support.

(2) The administrative determination of line of duty incurrence of disability, as prescribed in subparagraph (b) (2) will also be applicable to veterans of wars under this subparagraph (c).

(e) Hospital or domiciliary care for: Veterans who served, regardless of length of service, during a period of war as defined in subparagraph (a) (1), who were (1) not dishonorably discharged from their last period of war service; (2) who swear that they are unable to defray the expense of hospitalization or domiciliary care, including the expense of transportation to and from a Veterans Administration facility; (3) and who are suffering from a disability, disease or defect which, being susceptible of cure or decided improvement, indicates need for hospital care, or which, being essentially chronic in type and not susceptible of cure, or decided improvement by hospital care, is producing disablement of such degree and of such probable persistency as will incapacitate from earning a living for a prospective period, and thereby indicates need for domiciliary care. The provisions of section 5, Public No. 304, 75th Congress, that "re-enlistment after November 12, 1918, and before July 2, 1921, where there was prior service between April 6, 1917, and November 11, 1918, shall be considered as World War service," etc., will have no application to this Section 6.6047.

(f) Hospital treatment (only in facilities under direct and exclusive jurisdiction of the Veterans' Administration) for: Retired officers and enlisted men of the United States Army, Navy, Marine Corps or Coast Guard (regular establishment), who served in a period of war as defined in subparagraph (a) (1); and who are suffering from a disease or injury for which hospital treatment is needed. (May 3, 1939.) (Pub. No. 62, 76th Congress.)

[SEAL]

FRANK T. HINES,
Administrator.

[F. R. Doc. 39-1795; Filed, May 25, 1939;
11:18 a. m.]

TITLE 42—PUBLIC HEALTH AND EDUCATION

PUBLIC HEALTH SERVICE

[No. 5]

AMENDMENT TO THE REGULATIONS FOR THE GOVERNMENT OF THE UNITED STATES PUBLIC HEALTH SERVICE, 1931

To Commissioned Officers and all Others Concerned:

Pursuant to the authority contained in section 9 of the Act of April 9, 1930, 46 Stat. 150 (U.S.C. title 42, sec. 37) paragraphs 58 and 59 of the Regulations for the Government of the U. S. Public Health Service, approved June 18, 1931, are hereby amended to read as follows:

58. When an officer fails to pass the physical examination required for promotion the Board of Examiners shall report in detail the physical condition of said candidate and if it shall appear that his physical condition is the result of irregular or dissipated habits the case shall be reported as requiring investigation and a board shall be convened, in accordance with paragraph 316 for this purpose. Should any commissioned officer fail in his physical examination and be found incapacitated for service by reason of physical disability contracted in line of duty he shall be placed on waiting orders with the rank to which his seniority entitled him to be promoted. If the board finds that a period of observation and treatment will be necessary before a definite determination of physical condition can be made, the examination will be suspended for such period of observation and treatment as may be necessary and upon its completion will direct the officer undergoing examination to appear before the Board for completion of his examination.

59. When an officer is placed on waiting orders and it shall subsequently appear that he has progressed to recovery the Surgeon General shall order him to present himself before a board of officers for reexamination. If the board finds that the officer is physically qualified the

Surgeon General shall order him to return to active duty.

[SEAL]

THOMAS PARRAN,
Surgeon General.

Approved: May 17, 1939.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

Approved: May 19, 1939.

FRANKLIN D. ROOSEVELT
The White House.

[F. R. Doc. 39-1801; Filed, May 25, 1939;
12:24 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

ORDER IN THE MATTER OF RULES, STANDARDS, AND INSTRUCTIONS FOR THE INSTALLATION, INSPECTION, MAINTENANCE, AND REPAIR OF SYSTEMS, DEVICES, AND APPLIANCES INTENDED TO PROMOTE THE SAFETY OF RAILROAD OPERATION IN ACCORDANCE WITH SECTION 26 OF THE INTERSTATE COMMERCE ACT AS AMENDED AUGUST 26, 1937

Present: FRANK McMANAMY, Commissioner, to whom the above entitled matter has been assigned for action thereon.

Whereas, paragraph (c) of section 26, of an act of Congress approved August 26, 1937, entitled, "An Act To require certain common carriers by railroad to install and maintain certain appliances, methods, and systems intended to promote the safety of employees and travelers on railroads, and for other purposes," provides that "Each carrier by railroad shall file with the Commission its rules, standards, and instructions for the installation, inspection, maintenance, and repair of the systems, devices, and appliances covered by this section within six months after the enactment of this amendatory provision, and, after approval by the Commission, such rules, standards, and instructions, with such modifications as the Commission may require, shall become obligatory upon the carrier: *Provided, however,* That if any such carrier shall fail to file its rules, standards, and instructions the Commission shall prepare rules, standards, and instructions for the installation, inspection, maintenance, and repair of such systems, devices, and appliances to be observed by such carrier, which rules, standards, and instructions, a copy thereof having been served on the president, chief operating officer, trustee, or receiver, of such carrier, shall be obligatory: *Provided further,* That such carrier may from time to time change the rules, standards, and instructions herein provided for, but such change shall not take effect and the new rules, standards, and instructions be enforced until they shall have

been filed with and approved by the Commission: *And provided further*, That the Commission may on its own motion, upon good cause shown, revise, amend, or modify the rules, standards, and instructions prescribed by it under this subsection, and as revised, amended, or modified they shall be obligatory upon the carrier after a copy thereof shall have been served as above provided;" and

Whereas, the rules, standards, and instructions for the installation, inspection, maintenance, and repair of the systems, devices, and appliances covered by said section which were filed by a number of said carriers by railroad within the prescribed period of six months were incomplete and inadequate to carry out the purposes of the act, and other carriers failed to file their said rules, standards, and instructions within the prescribed period of six months; and

Whereas, rules, standards, and instructions as provided for by said section for the installation, inspection, maintenance, and repair of the systems, devices, and appliances covered by said section, except manual block signal systems, have been prepared by the Commission, and have been considered by representatives of the carriers and representatives of the employees of said carriers in conferences held on November 21, 1938, and January 17, 1939, and on April 7, 1939, said representatives of the carriers and of the employees have agreed to accept said rules, standards, and instructions,

Now, therefore, in pursuance of and in accordance with the provisions of said section 26 of said act,

It is ordered, That the following rules, standards, and instructions for the installation, inspection, maintenance, and repair of the systems, devices, and appliances covered by said section, except manual block signal systems, which have been prepared by the Commission and have been agreed to by representatives of the carriers and by representatives of the employees be, and they are hereby, approved and prescribed, and from and after the first day of September, 1939, shall be observed by each and every common carrier subject to the said section 26 of the act as minimum requirements: *Provided*, That nothing herein contained shall be construed as prohibiting any carrier from enforcing additional rules, standards, and instructions not inconsistent with the said rules, standards, and instructions, tending to a greater degree of precaution against accidents;

It is further ordered, That a copy of this order shall be served upon each and every common carrier by railroad subject to said section 26 of the act.

Dated at Washington, D. C., this thirteenth day of April, 1939.

By the Commission, Commissioner McManamy.

[SEAL]

W. P. BARTEL,
Secretary.

RULES, STANDARDS, AND INSTRUCTIONS FOR INSTALLATION, INSPECTION, MAINTENANCE, AND REPAIR OF AUTOMATIC BLOCK SIGNAL SYSTEMS, INTERLOCKING CENTRALIZED TRAFFIC CONTROL SYSTEMS, AUTOMATIC TRAIN STOP AND TRAIN CONTROL SYSTEMS, AUTOMATIC CAB SIGNAL SYSTEMS CONTINUOUSLY CONTROLLED (WITHOUT AUTOMATIC TRAIN STOP OR TRAIN CONTROL), DRAGGING EQUIPMENT AND SLIDE DETECTORS AND OTHER SIMILAR PROTECTIVE DEVICES, OTHER SIMILAR APPLIANCES, METHODS, AND SYSTEMS

[Effective September 1, 1939]

Rules, standards, and instructions for installation, inspection, maintenance, and repair of block signal systems, interlocking, automatic train stop, train control, and cab signal devices, and other similar appliances, methods, and systems promulgated and established in accordance with paragraph (c) section 26 of the Interstate Commerce Act as amended August 26, 1937.

Responsibility of Carrier

The railroad company is responsible for the installation, inspection, maintenance, and repair of block signal systems, interlocking, automatic train stop, train control and cab signal devices, and other similar appliances, methods, and systems used or permitted to be used on its line. It must know that all installations, inspections, tests, and repairs are made and reports are made and filed as required, and that all parts and appurtenances of the devices used are maintained in condition to meet the requirements of the law and these rules, standards, and instructions.

Rules and Instructions—All Systems

General

1. The apparatus shall be so installed and maintained as to be safe and suitable for service.
2. Correct track layout plan, circuit plan, locking sheet, and dog chart, in good condition, shall be kept at each interlocking station and at each place where their use is required.
3. Maintenance and repair work which may interfere with safe movement of trains shall not be started until train movements have been fully protected. Temporary repairs or adjustments when required shall be made in such manner that safety of operation will not be impaired.
4. Defective apparatus or parts shall be promptly replaced and record made of such replacement.
5. Circuit shall not be opened or shunted or other action taken which may cause operation of signal or other apparatus at a time when such action may affect safety of train operation.
6. In case of severe storm, inspection shall be made as soon as practicable and any trouble corrected.
7. In case of an accident in which signal apparatus or other controlling de-

vice is concerned, a thorough examination shall be made immediately of all parts involved and record made of the results of such examination.

8. In case of failure or damage to apparatus which cannot be repaired immediately and which may affect safety of train operation, signals or other controlling devices shall be arranged to provide protection until the condition is corrected.

9. In case broken rail, wide gage or other condition is discovered which may affect safety of train operation, steps shall be taken immediately to protect trains by flag, signals, or other controlling devices; record of the defect shall be made and the defect remedied as quickly as possible.

10. When rail is being laid or other track changes are being made which render the track unsafe for passage of trains, signals or other controlling devices shall be arranged to provide protection. The signals or other controlling devices shall not be restored to normal operation until tests have been made and it is known that they function as intended, and that the track is safe for the passage of trains.

11. Circuit shall be kept free of grounds which may interfere with proper operation.

12. Outside signal and instrument cases shall be locked except where it is established to be undesirable. Power interlocking machine cabinets, time releases, and electric locks shall be locked or sealed.

13. When repair, adjustment, change, or replacement is made in any part of the system that may affect the operation of the system, tests shall be made immediately to determine that proper operation is assured.

14. The normal functioning of any electrical device shall not be defeated by mechanical means, or by means of any other form of energy, without taking proper measures to insure safe operation of trains.

15. The apparatus shall be so installed and maintained that it will not constitute a source of danger to trainmen, other employees, or passengers.

Signals

21. Signal mast shall be vertical, securely fastened on suitable support, and signal aligned to give the best possible indications for approaching trains. Signals shall be installed to avoid, so far as possible, liability of mistaking the indication of one signal for the indication of another signal, or confusion between signal and other lights.

22. Signal blade, lens, roundels, glass, and lamp shall be cleaned as often as necessary to insure good indications.

23. Lamp bracket shall be securely fastened and all parts of lamp shall clear spectacle not less than one-half inch.

24. Ladder, hand railing, and platform shall be kept in good condition and securely fastened.

25. Movable parts of signal shall move freely under all weather conditions which permit the operation of trains.

26. Semaphore spectacle casting shall rest against the stop provided for that purpose, allowing slot-arms and vertical connections to be free from downward pressure when in the most restrictive position.

27. Semaphore signal shall not be placed in service until bearings have been cleaned, and oil, dirt, and grease removed from the armature and poles of slot magnets and gears, all parts lubricated, and preferably after electrical torque tests have been made.

28. Bearings shall be lubricated and kept free from grit and dirt.

29. Mechanism shall be kept in proper adjustment. Excessively worn or defective parts shall be replaced.

30. Slot or equivalent device shall release when voltage is reduced to less than the release voltage for which such apparatus is designed.

31. Air gap between movable and fixed members of slot or retaining device shall be not less than the minimum for which the apparatus is designed to operate. Movable and fixed members of slot or retaining device shall be kept free from grease, oil, and dirt.

32. Electric contacts shall be kept clean and in proper adjustment.

33. Wires shall be so arranged as not to interfere with operating parts of mechanism.

34. Buffing or snubbing of signal shall be effective to eliminate undue strain on mechanism. Buffers shall be cleaned and lubricated once each year, and repacked or refilled as often as necessary to maintain proper buffing.

35. Armature of signal motor shall not have excessive lost motion in bearings and the clearance between rotating and stationary parts shall be adequate to insure proper operation.

36. On signal employing a toggle arrangement, the slot toggle adjustment shall not be changed from its original setting. If adjustment of toggle changes due to wear, toggle or slot arm shall be replaced.

37. Slot magnet armature shall have sufficient end play to allow armature to seat firmly against pole face core pins under all conditions.

38. Slot armature side play measured at lower end of armature shall not exceed one-eighth inch.

39. Tooth disk on motor armature or pawl in retaining mechanism which has become worn or burled shall be replaced.

40. In signal of the searchlight type, the relay mechanism shall be maintained in accordance with sections 71 to 80, inclusive, insofar as such sections apply.

41. In light signal other than searchlight type, changes in the internal parts including the lamp receptacle shall not be made from their original settings, except where provision has been made for focusing.

42. Action shall be taken when necessary to prevent phantom indications from reflected external sources.

43. Deflecting prisms shall be assembled and maintained to spread the light in the proper direction.

Track Circuits

51. Track circuits shall, so far as possible, be so installed and maintained that the track relay will be in deenergized position whenever any of the following conditions exist, and the track circuit of an automatic train stop, train control or cab signal system will be deenergized in the rear of the point where any of the following conditions exist:

(a) A rail is broken or a rail or frog is removed.

(b) A train, engine, or car occupies any part of a track section including fouling section of turnout or crossover.

(c) Where switch shunting circuit is used—

1. A switch is misplaced or its points not in proper position.

2. A switch is not properly locked where facing point lock with circuit controller is used.

3. An independently operated fouling point derail equipped with switch circuit controller is misplaced or not in derailing position.

52. Where relayed cut-section is used, the track relay at cut-section shall, when in deenergized position, open the track energy supply for the adjacent track circuit, and in noncoded direct-current territory shunt the adjacent track circuit.

53. At grade crossing with an electric railroad where tests indicate presence of foreign current, the electric energy for noncoded direct current track circuit shall be connected to feed away from the crossing.

54. The length of any track circuit, except trap circuit, shall be greater than maximum inner wheel base of any engine or car.

55. Where dead section exceeds 35 feet or the shortest wheel base of an engine, special circuit shall be installed. (See footnote, page 2155.)

56. Track circuit shall be so maintained that circuit will be properly energized during wet weather or minimum ballast resistance conditions, and during dry weather or maximum ballast resistance conditions the track circuit will not be over-energized to such an extent that shunting sensitivity will be decreased below a safe value.

57. Bonding shall be maintained in condition to insure low resistance.

58. Shunt wires, preferably in duplicate, shall provide adequate conductivity to insure effective shunting and shall be kept in place and in good condition.

59. Track connections and fouling circuits shall be so installed and maintained as to avoid breaks or undue resistance.

60. Switch circuit controller connected at the point to switch located in main track or in other track equipped with track circuit and not equipped with facing point lock shall be so maintained that when point is opened one-fourth inch or more on facing switch and three-eighths inch or more on trailing switch, track or control circuits will be shunted or opened or both. Switch circuit controller shall be securely fastened and contacts shall be kept clean, with minimum resistance, and with contact opening of not less than one-sixteenth inch when open.

61. Circuit controller operated by switch-and-lock movement shall be so maintained that the contacts will remain closed or opened or both until the locking dog has passed through the lock rod.

62. Insulated rail joints shall be maintained in good condition, drainage provided, insulation in place, bolts tight, and ties properly spaced and tamped.

63. Circuits shall, so far as possible, be arranged to provide protection against broken down insulation in insulated rail joints.

64. Insulation in pipe line, switch rod, tie rod, and gage plate shall be maintained in good condition.

65. Pipe line under rail shall clear base of rail at least one-half inch.

Relays, Slot Coils, Magnet Valves, Electric Locks, and Indicators Controlling Circuits

71. Pick-up and drop-away values shall be maintained within limits which will insure reliable and safe operation.

72. Relay shall not be tilted or turned over to close contacts. Contacts of relay or other controlling device shall not be bridged without taking proper measures to insure safe operation of trains.

73. Voltage at the local terminals of a two-element alternating-current relay shall be as nearly as possible the normal voltage at which the relay is designed to operate.

Pole Lines and Power Supply

81. Pole line carrying signal circuits shall be properly installed and maintained. The wires shall be securely tied in on the insulators, and broken insulators shall be replaced.

82. The clear space between the lowest overhead signal line conductor and the surfaces of track rails at points where freight cars are handled on top of which men are permitted shall be not less than 27 feet at 60° F., no wind.

83. Open-wire transmission line operating at voltage of 750 volts or more shall be placed not less than 4 feet above the nearest cross-arm carrying signal or communication circuits.

86. Battery shall be installed in suitable housing, shall be of sufficient capacity for the service required, and shall be kept sufficiently charged or renewed as often as necessary to insure safe and reliable operation. Connections shall be

kept clean and tight, and cracked or broken jars shall be replaced.

87. Transformer shall be of sufficient capacity for the service required and shall be suitable for the frequency and the voltage supply with which it is used.

88. Rectifier shall be of sufficient capacity for the service required and shall be used only with the voltage and frequency for which it is suitable.

89. Lightning arrester shall be properly connected and ground maintained with resistance to ground preferably of not more than 25 ohms.

Insulated Wires and Cables

91. Insulated wire shall be protected from mechanical injury to avoid interference with proper operation of apparatus. The insulation shall not be punctured for test purposes. Splice shall not be made in insulated underground wire when it can be avoided.

92. Insulated wire and cable used aerially shall be supported on insulators or suspended from messenger wire.

93. Wires shall be properly identified. Tags in instrument, mechanism, and terminal cases shall be made of insulating material and so placed that they will not interfere with moving parts of apparatus. (See footnote, page 2155.)

Inspections and Tests—All Systems

101. Periodical inspection and test shall be made to insure that apparatus is in proper condition for service. The frequency of tests named below represents the maximum intervals between tests.

102. When making test of apparatus proper instruments shall be used, and it must be known that no unsafe conditions are set up by the application of testing equipment.

103. General inspection shall be made once every 4 years to insure good physical condition and operation, and that apparatus is installed in accordance with plans covering the installation.

104. Signal mechanism shall be inspected to insure that the apparatus is maintained in safe and suitable condition for service. Tests of the operating characteristics of all parts of the signal mechanism shall be made at periods specified by the carrier subject to approval by the Commission, but not less frequently than once every 2 years.

105. Switch circuit controller shall be inspected frequently and tests made quarterly to insure that it is in good condition and in proper adjustment.

106. Fouling circuit on switch shall be inspected frequently and tested quarterly to insure that fouling wires are intact and that fouling circuit shunts properly.

107. Insulated rail joints shall be inspected monthly to insure that they are in good condition.

108. Relay in service shall be tested every 2 years in accordance with tests specified by each carrier, subject to approval by the Commission. Relay which

fails to meet requirements of specified tests shall be removed from service, subjected to thorough tests, and shall not be replaced in service unless its operating characteristics are in accordance with the limits within which such relay is designed to operate.

109. Lightning arresters shall be inspected frequently during the seasons of the year when lightning occurs, and gas and vacuum types tested annually and record made of date of tests.

110. Insulation resistance tests shall be made when wires, cables, and insulation are dry. Wires and cables, except wires connected directly to track rails, shall be tested in accordance with the following schedule; wires shall be given special attention and, if necessary, removed from service when the insulation resistance is found to be below the following values:

Description	Test period	Minimum allowable resistance
Low-voltage wires and cables, braided, rubber insulation, any part of which is underground or in trunking.	5 years...	1 megohm.
Low-voltage aerial wires and cables, braided, rubber insulation, no part of which is underground or in trunking.	8 years...	1 megohm.
Lead-sheathed wires and cables, parkway cables with lead sheath, trench lay and cables with metal sheath, carrying low-voltage circuits.	8 years...	1 megohm.
Local signal wiring....	8 years...	1 megohm.
Lead-covered signal power cables.	8 years...	100 megohms between sectionalizing switches.
Underground signal power lines, not lead sheathed.	5 years...	40 megohms for voltages up to and including 500 volts for section tested. 100 megohms between sectionalizing switches for voltages exceeding 500.

111. Pole line shall be inspected once every 2 years to insure that it is in good condition.

112. Records of results of tests made in conformity with sections 104, 105, 106, 108, 110, 377 to 388, inclusive, 577, 586, 588, 589, 677, 679, and 680 shall be made on forms provided by the railroad, showing name of railroad, place and date, repairs, replacements and adjustments made, and condition in which apparatus was left, and signature of employee making the test. The report shall be filed in the office of the proper supervisory officer of the carrier.

Automatic Block Signal Systems Standards

201. The apparatus shall, so far as possible, be so installed and circuits so arranged that failure of any part of the system affecting the safety of train operation will cause all signals affected to give the most restrictive indications which conditions require.

202. Signals shall be located preferably to the right of and adjoining the track to which they refer.

203. Signal indications shall be given by positions, by colored lights, or by both. A single white light shall not be used for a proceed indication. (See footnote, page 2155.)

204. Signals shall be spaced at least stopping distance apart or, where not so spaced, an equivalent stopping distance shall be provided by two or more signals arranged to display restrictive indications approaching signal where such indications are required. (See footnote, page 2155.)

205. Signals shall be automatically controlled by continuous track circuits on main track and on other track where medium speed is permitted.

206. Signals governing movements over switch shall be so controlled that proper restrictive indications will be displayed when such switch is not in proper position.

207. On track signaled for movements in both directions, signals shall be so arranged and controlled that proper restrictive indications will be provided to protect both following and opposing movements.

208. The circuits shall be so installed that:

(a) So far as possible, the failure of any part of a circuit affecting the control of a signal will not result in the signal displaying a more favorable indication than intended.

(b) When a train, engine, or car is in a block, a switch is misplaced or its points not in proper position, an independently operated fouling point derail equipped with switch circuit controller is misplaced or not in derailing position, or a track or the signal control relay is in deenergized position, each signal governing a train movement into the block will display its proper restrictive indication.

(c) When there is no train, engine, or car in a block, all switches and independently operated fouling point derails equipped with switch circuit controllers are in normal position, and all track and signal control relays in energized position, each signal governing a train movement into the block will display its proper indication for approaching train to proceed.

209. Signal control relay circuit shall not be broken through the contacts of switch, station, or tower indicator or annunciator in which the indicating element is attached to the armature.

210. The battery or power supply for signal control relay circuits shall be located at the end of the circuit farthest from the relay.

211. Signal control relay shall be controlled by track circuits extending through the entire block.

Rules and Instructions

226. The rules and instructions prescribed in sections 1 to 100, inclusive,

shall apply to automatic block signal systems.

Inspections and Tests

276. The inspections and tests prescribed in sections 101 to 200, inclusive, shall apply to automatic block signal systems.

Interlocking

Standards

301. The apparatus shall, so far as possible, be so installed and circuits so arranged that failure of any part of the system affecting the safety of train operation will cause all signals affected to give the most restrictive indications which conditions require.

302. Signals shall be located preferably to the right of and adjoining the track to which they refer.

303. Signal indications shall be given by positions, by colored lights, or by both. A single white light shall not be used for a proceed indication. (See footnote, page 2155.)

304. Approach and home signals shall be spaced at least stopping distance apart, or where not so spaced an equivalent stopping distance shall be provided by two or more signals arranged to display restrictive indications approaching home signal, the indication of which requires such restrictive indications. (See footnote, page 2155.)

305. Track circuits shall be provided throughout interlocking limits, except when otherwise authorized by the Commission. (See footnote, page 2155.)

306. Signals governing movements over switches, movable point frogs, and derails shall be so controlled that indications to proceed can be displayed only when such units are in proper position.

307. Mechanical locking to insure predetermined order of lever movement, or circuits to insure proper correlation of the units of the interlocking, shall be provided.

308. Except at automatic interlocking, signals which form a part of an automatic block signal system shall be controlled semiautomatically.

309. Approach or time locking shall be provided in connection with signals governing movements at high or medium speed. (See footnote, page 2155.)

310. Electric switch locking shall be provided, except when otherwise authorized by the Commission. (See footnote, page 2155.)

311. Facing point lock or switch-and-lock movement shall be provided for mechanically operated switch, movable point frog, or split-point derail.

312. Power switch operating and locking mechanism at manually operated interlocking shall be provided with means to indicate on interlocking machine or to the operator when movement is completed and unit is locked. Circuits shall be provided to insure proper correlation of the units of automatic interlockings.

313. Indication locking or equivalent shall be provided for approach signals of the semaphore type and power-operated

home signals at manually operated interlockings.

314. At automatic interlocking, the circuits shall be so arranged that when trains enter approach circuits simultaneously, proceed indications of home signals on conflicting routes cannot be displayed at the same time.

315. Approach signals shall be installed at automatic interlocking. When authorized train speed between home signals exceeds 20 miles per hour, operative approach signals shall be provided.

316. Automatic interlocking shall be so arranged that when home signal has been cleared and route has not been used, if there is a train on approaching sections of such route, home signal for conflicting route can be cleared only after the expiration of a predetermined time interval.

317. The proceed control circuits for home signal at automatic interlocking shall be broken through relays for all track circuits between home signals on the same and intersecting tracks, and through signal mechanism contacts or relay contacts repeating stop signal indications for conflicting routes and through normal contacts of time releases for conflicting routes.

318. At automatic interlocking, the controlling apparatus, except manually operated time release, shall be located at a distance from the tracks for the purpose of avoiding damage. Manually operated time release shall be located adjacent to the tracks at a point where employee who has occasion to operate it will, so far as possible, have an unobstructed view of each route.

319. When movable bridge is protected by interlocking, provision shall be made to insure that movements of the bridge devices succeed each other in a predetermined order, and that the movable span, tracks, and switches within interlocking limits are locked in proper positions.

320. Movable bridge shall be equipped with mechanism to surface and align bridge and track accurately and fasten them securely in position.

321. One-inch pipe or larger, or equivalent, shall be used for connection to switch, derail, movable point frog, lock, bridge operating and locking devices, and mechanically operated signal. Pipes shall be screwed into coupling until ends abut and shall be properly riveted. Pipe line shall be in alignment, properly compensated, and supported on carriers spaced not more than 8 feet apart on tangent and curve of less than 2° and not more than 7 feet apart on curve of 2° or more. With lever in any position, couplings in pipe line shall not foul carriers. (See footnote, page 2155.)

322. In new installations and in making replacements, lever locks on interlocking machines shall be of the forced-drop type or equivalent.

Rules and Instructions

326. The rules and instructions prescribed in sections 1 to 100, inclusive,

shall apply to interlocking, and in addition the following:

327. Interlocking or control machine, switch movements, and other appurtenances shall be kept in good condition, free from excessive lost motion, rust, grease, and dirt. Levers and locking shall be kept clean. All bearing parts shall be kept lubricated but excessive lubrication should be avoided. Bolts and dowel pins shall be kept tight, cotter pins properly spread, and sufficient tension in latch springs. Contacts shall be kept clean and properly adjusted.

328. When mechanical locking of interlocking machine is to be changed or removed from machine, or locking becomes disarranged or broken, proper measures shall be taken to protect train movements until plant is restored to normal operation.

329. Switch shall be so maintained that it cannot be locked when one-fourth-inch rod is placed between stock rail and switch point 6 inches back from point of switch. Locking edges shall be kept square.

330. Cranks, compensators, and other mechanical connections shall work freely, but shall not have excessive lost motion in moving parts. They shall be kept clean, properly centered, lubricated, and in alignment.

331. Holes in lock rod shall have square edges and be not more than one-eighth inch larger than plunger.

332. Plunger of facing point lock shall have at least 8-inch stroke and when its lever is in normal position the end of plunger shall clear lock rod 1 inch. The end of the plunger shall have square edges.

333. Bolt lock shall be so maintained that signals governing movements over switch or derail cannot be cleared when derail is in derailing position, or when switch point is open one-fourth inch or more when bolt lock is used in lieu of facing point lock, and one-half inch or more when switch or derail is otherwise protected. Signal bar shall be against the stop when signal lever is normal. Notches shall have square edges.

334. Driving bar of switch-and-lock movement shall travel, both normal and reverse, so that locking dog will pass through lock rod one-half inch or more.

335. When necessary to disconnect switch, derail, or other unit, it should be done at the crank nearest the unit.

336. Air distribution system shall be so maintained that leakage in any section of the plant will not exceed 1 pound in 1 minute from normal pressure with all apparatus connected and at rest.

337. Air strainer used between air distribution system and air apparatus shall be cleaned frequently enough to avoid air pressure reduction.

338. Valves and cylinders shall be inspected and tested in service by application of air pressure with apparatus at rest. This shall be done frequently enough to insure that parts are clean,

packing tight, air supply unrestricted, and apparatus functioning efficiently.

339. When necessary to repair switch and signal valves and cylinders, they shall be removed from service and the work performed in a shop.

340. Condensers, tanks, reservoirs, and air distribution lines shall be drained frequently enough to avoid overflow of condensation into branch lines and apparatus. Means of draining condensation out of distribution system shall be provided and maintained at low points.

341. Overload relay and magnet brake on electric switch-and-lock movement shall be checked frequently enough to insure proper operation.

342. Lock and point detector rod connections shall be maintained with a minimum of lost motion, inspected and tested frequently, and maintained in proper adjustment.

343. Corner edges of locking dogs and rods of switch-and-lock movement or facing point lock shall be maintained with not more than one-sixteenth inch wear.

344. Pole changer on electric switch operating mechanism shall be maintained to insure that switch mechanism follows movement of lever.

345. Point detector shall be so maintained that when switch mechanism is locked in normal or reverse position, contacts cannot be opened by manually applying force at the switch points in either direction. Contacts shall remain open with one-fourth inch obstruction between switch point and stock rail, approximately 6 inches from point, where latch-out device is not used, and three-eighth inch obstruction where latch-out device is used.

346. Mechanical locking shall be maintained to insure that it is effective, and that levers cannot be operated except in proper sequence.

347. Driving pieces, dogs, stops, and trunnions shall be maintained to insure that they are properly secured to locking bars. Swing dogs shall have full and free movement. Top plates shall be kept in place and tight.

348. The various parts of the locking bed, locking bed supports, and tappet stop rail shall be rigidly secured and properly aligned to insure free and effective operation.

349. Locking dogs and notches shall be examined for wear; locking faces shall fit squarely against each other with a minimum engagement when locked of at least one-half the designed locking face.

350. Locking shall be in accordance with locking sheet and dog chart currently in effect.

351. When lever or latch which is locked can be moved more than shown below, excessive lost motion shall be removed:

(a) *Mechanical machine*—1. *Latch-operated locking*. When lever latch

block can be raised to within three-eighths inch of top of quadrant.

2. *Lever-operated locking*. When lever latch block can be moved more than three-eighths inch on top of quadrant.

(b) *Electro-mechanical machine*—1. *Lever moving in horizontal plane*. When lever can be moved more than three-sixteenths inch when in normal position or seven-sixteenths inch when in reverse position.

2. *Lever moving in arc*. When lever can be moved more than 5°.

(c) *Power machine*—1. *Latch-operated locking*. When lever latch block can be raised to within seven thirty-seconds inch of top of quadrant.

2. *Lever moving in horizontal plane*. When lever can be moved more than five-sixteenth inch when in normal position or nine-sixteenth inch when in reverse position.

3. *Lever moving in arc*. When lever can be moved more than 5°.

352. In electro-mechanical interlocking machine, locking between electric and mechanical levers shall be maintained to insure that mechanical lever cannot be operated except when properly released by electric lever.

353. Latch shoes, rocker links, and quadrants of Saxby and Farmer machines shall be maintained so that locking will not release if the foot is used on the rocker while lever is in mid-stroke position.

354. Rail lock on movable bridge shall be maintained so that it cannot be locked with the rail displaced one-fourth inch or more from its proper position.

355. Bridge lock on movable bridge shall be maintained so that it cannot be locked unless the movable members are within 1 inch of their proper positions.

356. Circuit controller operated by surfacing devices on movable bridge shall be so maintained that the circuits will not be completed unless locking bars are within 1 inch of their proper positions.

Inspections and Tests

376. The inspections and tests prescribed in sections 101 to 200, inclusive, shall apply to interlocking, and in addition the following:

377. Mechanical locking in interlocking machine shall be tested when new locking is placed in service or change in locking is made. At periods specified by the carrier, subject to approval by the Commission, but not less frequently than once every 4 years, complete test shall be made to determine that locking is in accordance with plans currently in effect, and in condition to insure proper functioning.

378. Approach locking shall be tested annually, to insure that after a signal has been cleared, the position of any switch, derail, or movable point frog in the route governed by that signal can-

not be changed with the approach circuit open, until after the expiration of a predetermined time interval.

379. Time locking shall be tested annually to insure that after a signal has been cleared, the position of any switch, derail, or movable point frog in the route governed by that signal cannot be changed until after the expiration of a predetermined time interval.

380. *Switch locking*. Section, route, or other type of switch locking shall be tested quarterly to insure that a switch, derail, movable point frog, or facing point lock cannot be operated with a train occupying any portion of the protecting track circuit.

381. Indication locking shall be tested annually on semaphore signals, annually on switch or lock levers, and every 2 years on light signals, as follows:

(a) *Lock on signal lever*. To insure that lever or latch cannot be placed in normal position until the corresponding home signal indicates "Stop" and approach signal indicates "Approach."

(b) *Lock on switch or lock lever*. 1. When movement is operated, locked, and indicated by the same lever: to insure that lever and switch or switches or other operated units are in corresponding positions and locked before lever stroke can be completed and mechanical locking released.

2. When locked and indicated by lock lever: to insure that operating lever and switch or switches or other operated units are in corresponding positions before lock lever can be operated and mechanical locking released.

382. Traffic locking shall be tested annually to insure that levers or units for changing the direction of traffic on a section of track cannot be manipulated while a signal is displayed for a train to proceed into that section or with any part of the section occupied.

383. Switch obstruction test shall be made quarterly to insure proper maintenance and adjustment of switches.

384. In electro-pneumatic interlocking, valve locks on valves of the non-cut-off type, valves and magnets shall be tested quarterly to insure that apparatus and circuits are in proper condition.

385. Cross protection shall be tested quarterly to insure that protective devices operate properly to prevent movement of switches, signals, and other units when current is improperly applied to the circuits.

386. Time releases and timing relays shall be tested quarterly and the timing shall be maintained within 10 percent of the predetermined time interval.

387. Restoring feature on power switches shall be tested quarterly to insure that power will be applied and will restore switch movements to full normal or full reverse position.

388. Movable bridge locking shall be tested at periods specified by the car-

rier, subject to approval by the Commission, but not less frequently than once each year, to insure that rail locks, bridge locks, bolt locks, circuit controllers, and electric locks are in good condition and are functioning properly.

Centralized Traffic Control Systems Standards

401. The apparatus shall, so far as possible, be so installed and circuits so arranged that failure of any part of the system affecting the safety of train operation will cause all signals affected to give the most restrictive indications which conditions require.

402. Signals shall be located preferably to the right of and adjoining the track to which they refer.

403. Signal indications shall be given by positions, by colored lights, or by both. A single white light shall not be used for a proceed indication.

404. Signals shall be spaced at least stopping distance apart or, where not so spaced, an equivalent stopping distance shall be provided by two or more signals arranged to display restrictive indications approaching signal where such indications are required. (See footnote, page 2155.)

405. Signals shall be automatically controlled by continuous track circuits on main tracks and on other tracks where medium speed is permitted, and in addition at controlled point by control operator, and at manually operated interlocking manually in cooperation with control operator. (See footnote, page 2155.)

406. Signals at a controlled point shall be so interconnected that they cannot be clear for opposing or conflicting movements.

407. Signals at adjacent controlled points shall be so interconnected that they cannot be clear for opposing or conflicting movements.

408. Signals governing movements over switches shall be so controlled that indications to proceed can be displayed only when such switches are in proper position.

409. On track signaled for movements in both directions, means shall be provided for establishing, maintaining, and changing direction of traffic.

410. A track diagram or other means shall be provided at control station to indicate occupancy of track sections at controlled points.

411. Approach or time locking shall be provided.

412. Means shall be provided to insure that after a signal has been cleared it cannot be restored manually to "Stop" by the operation of any lever other than its controlling lever.

413. Section or route locking shall be provided where switches are power-operated.

414. Means shall be provided to indicate on the control machine when power-operated switch has completed its movement and is locked.

415. Hand-operated switch electrically locked in normal position shall be operative only after release has been given, after signals protecting such switch display the most restrictive indications the condition requires, and either after a predetermined time interval or, with approach locking, when approach section is unoccupied.

Rules and Instructions

426. The rules and instructions prescribed in sections 1 to 100, inclusive, in addition to those in sections 327 to 375, inclusive, insofar as they are applicable, shall apply to centralized traffic control systems.

Inspections and Tests

476. The inspections and tests prescribed in sections 101 to 200, inclusive, in addition to those in sections 377 to 400, inclusive, insofar as they are applicable, shall apply to centralized traffic control systems.

Automatic Train Stop, Train Control, and Continuously Controlled Cab Signal Systems

The following rules, standards, and instructions, sections 501 to 700, inclusive, supersede specifications and requirements for automatic train stop, train control, and continuously controlled cab signal devices and systems which have been heretofore prescribed by the Commission.

Automatic Train Stop and Train Control Systems

Standards

501. The following features may be included, separately or in combination, in automatic train stop or train control systems:

(a) *Automatic train stop.* (1) Without manual control by the engineman, requiring the train to be stopped; after which the apparatus may be restored to normal condition manually and the train permitted to proceed; or

(2) Under control of the engineman, who may, if alert, forestall the application of the brakes by the automatic train stop device and control his train in the usual manner in accordance with hand signals or under limits fixed by train order or prescribed by the operating rules of the company.

(b) *Automatic train control or speed control.* (1) Automatic stop, after which a train may proceed under low-speed restriction until the apparatus is automatically restored to normal or clear condition by reason of the removal of the condition which caused the stop operation.

(2) Low-speed restriction, automatic brake application under control of the engineman, who may, if alert, forestall application at a stop-indication point or when entering a danger zone and proceed under the prescribed speed limit, until the apparatus is automatically restored to normal or clear condition by

reason of the removal of the condition which caused the low-speed restriction.

(3) Medium-speed restriction, requiring the speed of a train to be below a prescribed rate when passing an approach signal or when approaching a stop signal or a danger zone in order to forestall an automatic brake application.

(4) Maximum-speed restriction, providing for an automatic brake application if the prescribed maximum-speed limit is exceeded at any point.

502. An automatic train stop device shall be effective when the signal admitting the train to the block indicates stop, and, so far as possible, when that signal fails to indicate existing danger conditions.

503. An automatic train control or speed control device shall be effective when the train is not being properly controlled by the engineman.

504. An automatic train stop, train control, or speed control device shall be operative at braking distance from the stop-signal location if signals are not overlapped, or at the stop-signal location if an adequate overlap is provided.

505. The automatic train stop or train control device shall meet the conditions set forth in sections 502, 503, and 504, applicable to each installation.

506. The apparatus shall be so constructed as to operate in connection with a system of fixed block or interlocking signals, if conditions so require, and so interconnected with the fixed-signal system as to perform its intended function (a) in event of failure of the engineman to obey the signal indications; and (b), so far as possible, when the signal fails to indicate a condition requiring an application of the brakes.

507. The apparatus shall be so constructed that it will, so far as possible, perform its intended function if an essential part fails or is removed, or a break, cross, or ground occurs in electric circuits, or in case of a failure of energy.

508. The apparatus shall be so constructed as to make indications of the fixed signal depend, so far as possible, upon the operation of the track element of the train control device.

509. The apparatus shall be so constructed that proper operative relation between the parts along the roadway and the parts on the train will be assured under all conditions of speed, weather, wear, oscillation, and shock.

510. The apparatus shall be so constructed and installed that the brakes cannot be released after automatic application until a reset device has been operated, or the speed has been reduced to a predetermined rate, or the obstruction or other condition that caused the brake application has been removed. If reset device is used it must be so constructed that the brakes cannot be released until the train has been stopped, or it must be so located that it cannot be operated by engineman without leaving his accustomed position in the cab.

511. The train apparatus shall be so constructed that, when operated, it will make an application of the brakes sufficient to stop the train or control its speed.

512. The apparatus shall be so constructed as not to interfere with the application of the brakes by the engine-man's brake valve or to impair the efficiency of the air-brake system.

513. The apparatus shall be so constructed that it may be applied so as to be operative when the engine is running forward or backward.

514. The apparatus shall be so constructed that when two or more engines are coupled together, or a pushing or helping engine is used, it can be made operative only on the engine from which the brakes are controlled.

515. The apparatus shall be so constructed that it will operate under all weather conditions which permit train movements.

516. The apparatus shall be so constructed as to conform to established clearances for equipment and structures.

517. The apparatus shall be so constructed and installed that it will not constitute a source of danger to trainmen, other employees, or passengers.

518. The apparatus shall be so constructed, installed, and maintained as to be safe and suitable for service. The quality of materials and workmanship shall conform to this requirement.

Rules and Instructions—Roadway

526. The rules and instructions prescribed in sections 1 to 100, inclusive, insofar as they are applicable, shall apply to automatic train stop and train control installations.

527. When a roadway element is displaced or cannot be adjusted to proper height, its controlling circuit disarranged, or for any other reason it is not in condition to function as intended, the signal associated with such roadway element shall be placed in condition to display its most restrictive indication until the roadway element and its controlling circuits have been restored to proper operative condition.

528. Insulation resistance between roadway element winding and ground shall be maintained at not less than 10,000 ohms.

529. When a noninterlocked switch is open, the restrictive condition of automatic train stop or train control devices of the continuous type on an approaching locomotive shall not be removed at a distance greater than 300 feet from the points of the switch.

530. Inductor of intermittent inductive automatic train stop device of the inert roadway element type shall be maintained with the inductor pole faces at a vertical distance above the plane of the tops of the rails, and with its inner edge at a horizontal distance from the gage side of the rail, as specified by the carrier, subject to approval by the Commission.

531. Ramp of intermittent electrical contact automatic train stop and train control devices shall be maintained with its contact surface at its highest point at a vertical distance above the plane of the tops of the rails, and with its center line at a horizontal distance from the gage side of the rail, as specified by the carrier, subject to approval by the Commission.

532. Trip arm of automatic train stop device of the mechanical trip type when in stop position shall be maintained at a height above the plane of the tops of the rails, and at a horizontal distance from its center line to gage of rail, as specified by the carrier, subject to approval by the Commission.

533. Except when authorized by the Commission, strap iron inductor, short ramp, or other design of roadway element intended primarily for test purposes shall not be used on track where medium speed is permitted.

534. Track magnet located between the rails of a track shall not extend above the plane of the tops of the rails.

Rules and Instructions—Locomotive

551. The voltage of power supply shall be maintained within 10 percent of rated voltage.

552. Insulation resistance between wiring when dry and ground shall be not less than 1 megohm.

553. Seal or lock shall be maintained on apparatus by means of which device can be cut out pneumatically, except double heading cock.

554. The equalizing reservoir or brake pipe reduction during an automatic brake application shall be at a rate not less than that which results from a manual service application.

555. Receiver coil which has been repaired or rewound shall have the same electrical characteristics which it possessed originally or as currently in effect for new equipment.

556. The electrical characteristics of relays, coils, and other electromagnetic apparatus shall be maintained in accordance with the limits within which the apparatus is designed to operate.

557. Change in adjustment of relays shall not be made in the field except when receiver coils, valve magnet, or other essential part of the equipment is changed. Irregularities in power-supply voltage or other variable factors in the circuit shall not be compensated for by adjustment of the relay.

558. Receiver of intermittent inductive automatic train stop device of the inert roadway element type shall be maintained with bottom of the receiver at a vertical distance above the plane of the tops of the rails, and with its outer edge at a horizontal distance from the gage side of the rail, as specified by the carrier, subject to approval by the Commission.

559. Contact face of shoe of intermittent electrical contact automatic train stop and train control devices shall be

maintained at a height above the plane of the tops of the rails, and with center line of shoe at a horizontal distance from the gage side of the rail, as specified by the carrier, subject to approval by the Commission.

560. Receiver of intermittent magnetic inductive automatic train stop devices shall be maintained with lower surface of receiver at a vertical distance above the plane of the tops of the rails, as specified by the carrier, subject to approval by the Commission.

561. Contact element of automatic train stop device of the mechanical trip type shall be maintained at a height above the plane of the tops of the rails, and at a horizontal distance from the gage of the rail, as specified by the carrier, subject to approval by the Commission.

562. Safety chains or safety hangers used with continuous inductive automatic train stop or train control devices shall clear receivers 1 inch or more.

563. The minimum rail current required to restore the locomotive equipment of continuous inductive automatic train stop or train control device to normal condition (pick-up) shall be within limits specified by the carrier, subject to approval by the Commission.

564. Delay time shall not be of such duration (preferably not more than 6 seconds) as to prevent train from being stopped from maximum authorized speed within braking distance provided.

Inspections and Tests—Roadway

576. The inspections and tests prescribed in sections 101 to 200, inclusive, insofar as they are applicable, shall apply to roadway installations of automatic train stop and train control systems, and in addition the following:

577. Roadway elements shall be inspected frequently enough to insure that they are in good condition. They shall be gaged monthly for height and alinement, and shall be tested semiannually to insure that they are in condition for reliable and safe operation. Roadway elements found to be defective shall be replaced with elements known to be in good condition.

Inspections and Tests—Locomotive

586. The automatic train stop or train control apparatus on each locomotive operating in equipped territory shall be inspected and tested daily or after each trip, except when otherwise authorized by the Commission, and the results recorded on a form provided for that purpose. The form shall show the name of the railroad, the place and date of inspection and test, the initial and number of the locomotive, defects if any, and the signature of the employee making the inspection and test. Necessary repairs shall be made and indicated on the form, together with written explanation for defects reported which were not repaired before the locomotive is returned to service. The form shall then be approved by the designated employee

of the railroad company and filed in the office of the railroad company at the place where the inspection and test are made.

587. Departure test over track elements or test circuits, except locomotives and multiple-unit cars equipped with mechanical trip stop, shall be made by an employee assigned to perform such tests, on departure from initial locomotive terminal or before entering equipped territory, to insure that the device is in service and is functioning properly. If departure test is made by employee other than engineman, record of operative condition shall be made on a form provided for that purpose. Locomotive shall not be dispatched from locomotive terminal for movement over equipped territory when device is not in proper operative condition, except locomotive used as helper from which brakes are not controlled or operated and except when authorized by the Commission. If engineman takes charge of locomotive en route in equipped territory, he shall know whether or not the device is in service.

588. Periodic tests shall be made quarterly or at every third monthly inspection, and on multiple-unit cars as specified by the carrier, subject to approval by the Commission, to insure that the device is adequately maintained and that the characteristics of the electrical and pneumatic equipment are within limits and values currently in effect, to insure proper operation.

589. Once every 4 years each relay shall be removed from service, subjected to thorough test, necessary repairs made, and shall not be replaced in service unless its operating characteristics are in accordance with the limits within which such relay is designed to operate.

590. Pneumatic automatic train stop or train control apparatus shall be inspected at regular intervals and cleaned every 6 months.

Automatic Cab Signal Systems Continuously Controlled (Without Automatic Train Stop or Train Control)

Standards

601. The automatic cab signal system shall function to display a cab signal indication which constantly corresponds with conditions in advance in the controlling section.

602. The automatic cab signal system shall be so arranged that a change of conditions affecting train movement which occurs within braking distance in advance will result immediately, regardless of the location of the locomotive in the controlling section, in a change of cab signal indication corresponding with these changed conditions.

603. The automatic cab signal system shall be so arranged that when a locomotive enters and is within a block in which there exists a condition causing a restrictive indication the cab signal will display the most restrictive indication required by that condition.

604. The automatic cab signal system shall be so arranged that when the cab signal changes to display a more restrictive indication an audible cab indicator will sound and continue to sound until acknowledged.

605. The automatic cab signal system shall be so interconnected with the fixed-signal system that the cab signal will display indications consistent with the indications of the fixed signals, except when a fixed signal displays a less restrictive indication than is required or warranted by existing conditions.

606. The cab signals shall be plainly visible to members of the locomotive crew when they are in their accustomed stations in the cab.

607. The cab indicator shall have a distinctive sound which will be clearly audible to members of the locomotive crew under all operating conditions when they are in their accustomed stations in the cab.

608. The automatic cab signal system shall be so constructed that the cab signal will, so far as practicable, display its most restrictive indication if an essential part fails or is removed, or a break, cross or ground occurs in electric circuits, or in case of a failure of energy.

609. The apparatus shall be so constructed that proper operative relation between the parts along the roadway and the parts on the locomotive will be assured under all conditions of speed, weather, wear, oscillation, and shock.

610. The apparatus shall be so constructed as not to interfere with the application of the brakes by operation of the engineman's brake valve or to impair the efficiency of the air-brake system.

611. The apparatus shall be so constructed that it may be applied so as to be operative when the locomotive is running forward or backward.

612. The apparatus shall be so constructed that it will operate under all weather conditions which permit train movements.

613. The apparatus shall be so constructed as to conform to established clearances for equipment and structures.

614. The apparatus shall be so constructed and installed that it will not constitute a source of danger to trainmen, other employees, or passengers.

615. The apparatus shall be so constructed, installed, and maintained as to be safe and suitable for service. The quality of materials and workmanship shall conform to this requirement.

Rules and Instructions—Roadway

626. The rules and instructions prescribed in sections 1 to 100, inclusive, insofar as they are applicable, shall apply to continuously controlled automatic cab signal installations.

627. When a noninterlocked switch is open, or unlocked where facing point lock is used, the restrictive cab signal indication on an approaching locomotive shall not be removed at a distance

greater than 300 feet from the points of the switch.

Rules and Instructions—Locomotive

651. The voltage of power supply shall be maintained within 10 percent of the rated voltage.

652. Insulation resistance between wiring when dry and ground shall be not less than 1 megohm.

653. The electrical characteristics of relays, coils, and other electromagnetic apparatus shall be maintained in accordance with the limits within which such apparatus is designed to operate.

654. The minimum rail current required to obtain a clear cab signal indication (pick-up) shall be maintained within limits specified by the carrier, subject to approval by the Commission.

655. Safety chains or safety hangers shall clear receivers one inch or more.

Inspections and Tests

676. The inspections and tests prescribed in sections 101 to 200, inclusive, insofar as they are applicable, shall apply to continuously controlled automatic cab signal systems, and in addition the following:

677. The automatic cab signal apparatus on each locomotive operating in equipped territory shall be inspected and tested daily or after each trip except when otherwise authorized by the Commission, and the results recorded on a form provided for that purpose. The form shall show the name of the railroad, the place and date of inspection and test, the initial and number of the locomotive, defects if any, and the signature of the employee making the inspection and test. Necessary repairs shall be made and indicated on the form, together with written explanation for defects reported which were not repaired before the locomotive is returned to service. The form shall then be approved by the designated employee of the railroad company and filed in the office of the railroad company at the place where the inspection and test are made.

678. Departure test over test circuits shall be made by an employee assigned to perform such tests, on departure from initial locomotive terminal or before entering equipped territory, to insure that the device is in service and is functioning properly. If departure test is made by an employee other than engineman, record of operative condition shall be made on form provided for that purpose. Locomotive shall not be dispatched from locomotive terminal for movement over equipped territory when device is not in proper operative condition, except locomotive used as a helper from which brakes are not controlled or operated and except when authorized by the Commission. If engineman takes charge of locomotive en route in equipped territory, he shall know whether or not the device is in service.

679. Periodic tests shall be made quarterly or at every third monthly in-

spection, and on multiple-unit cars as specified by the carrier, subject to approval by the Commission, to insure that the device is adequately maintained and that the characteristics of the electrical and pneumatic equipment are within limits and values currently in effect, to insure proper operation.

680. Once every 4 years each relay shall be removed from service, subjected to thorough test, necessary repairs made, and shall not be replaced in service unless its operating characteristics are in accordance with the limits within which such relay is designed to operate.

681. Pneumatic automatic cab signal apparatus shall be inspected at regular intervals and cleaned every 6 months.

Dragging Equipment and Slide Detectors and Other Similar Protective Devices

Standards

901. Devices used to provide protection against rock or landslides, dragging equipment, burned bridges or trestles, and washouts, shall be so installed and maintained that failure of any essential part will, so far as possible, cause the associated signals to display the most restrictive indications which conditions require. Such devices and signals controlled by them shall be so located that, when actuated, restrictive signal indications will be displayed adequate stopping distance from the area protected.

902. Where these devices are installed in automatic block signal territory, they shall be arranged to operate in conjunction with the automatic block signal system.

Rules and Instructions

926. The rules and instructions prescribed in sections 1 to 100, inclusive, insofar as they are applicable, shall apply to devices of this type.

Inspections and Tests

976. The inspections and tests prescribed in sections 101 to 200, inclusive, insofar as they are applicable, shall apply to devices of this type.

Other Similar Appliances, Methods, and Systems

1001. Rules, standards, and instructions prescribed herein, so far as applicable, shall be observed in the installation, inspection, maintenance, and repair of other similar appliances, methods, and systems.

Footnote

From and after the first day of September 1939, sections 55, 93, 203, 204, 303, 304, 305, 309, 310, 321, 404, and 405 will become effective with respect to installations subsequently made; in order to bring existing installations into conformity with the requirements of the foregoing listed sections, a period of 2 years will be allowed unless further extension of time is granted by the Commission with respect to any of these sections upon application by individual carrier or carriers.

Definitions

For purposes of these rules, standards, and instructions the following definitions will apply:

Approach signal. A fixed signal used in connection with one or more signals to govern the approach thereto.

Automatic block system. A series of consecutive blocks governed by block signals, cab signals, or both, actuated by a train, or engine, or by certain conditions affecting the use of a block.

Automatic cab signal system. A system which provides for the automatic operation of the following:

(a) Cab signal, a device, located in the cab, which, when locomotive and roadway apparatus are in operative relation, displays indications of conditions in advance, and

(b) Cab indicator, a device, located in the cab, which indicates a condition or a change of condition of one or more elements of the system.

Automatic interlocking. An arrangement of signal appliances which functions automatically as distinguished from an interlocking whose functions are controlled manually.

Automatic train control system. A system or an installation so arranged that its operation will automatically result in either one or the other or both of the following conditions:

First. Automatic train stop; the application of the brakes until the train has been brought to a stop.

Second. Automatic speed control; the application of the brakes when the speed of the train exceeds a prescribed rate and continued until the speed has been reduced to a predetermined and prescribed rate.

Block. A length of track of defined limits, the use of which by trains is governed by block signals, cab signals, or automatic train control.

Block system. A term used to denote any method of maintaining an interval of space between trains as distinguished from the time interval system. A series of consecutive blocks.

Cab. A compartment occupied by engineer, fireman, or motorman, of the engine, motorcar, or multiple-unit car from which the propelling power of the train is controlled.

Centralized traffic control system (C. T. C.). A term applied to a system of railroad operation by means of which the movement of trains over routes and through blocks on a designated section of track or tracks is directed by signals controlled from a designated point without requiring the use of train orders and without superiority of trains.

Continuous control. A type of control in which the locomotive apparatus is constantly in operative relation with the track elements and is immediately responsive to a change of conditions in the controlling section which affects train movement.

Controlling section. A length of track of one or more track circuit sections by which the track elements governing approach to or movement within a block are controlled.

Engine. See locomotive.

Home signal. A fixed signal at the entrance of a route or block to govern trains or engines entering and using that route or block.

Interlocking. An arrangement of signal appliances so interconnected that their movements must succeed each other in a predetermined order. It may be operated manually or automatically.

Interlocking limits. The tracks between the home signals of an interlocking.

Locomotive. A self-propelled unit of equipment used in train service. An engine.

Medium speed. A speed not exceeding one-half authorized speed.

Operating characteristics. The prevailing conditions that affect operation; when applied to electrical apparatus, the measure of electrical values at which the apparatus operates (drop-away, pick-up, working value, etc.).

Roadway element. That portion of the roadway apparatus of automatic train stop, train control, or cab signal devices, such as a ramp, magnet, inductor, or electric circuit, to which the locomotive apparatus of the automatic train stop, train control, or cab signal device is directly responsive.

Trip. A movement of a locomotive over all or any portion of automatic train stop, train control, or cab signal territory between the terminals for that locomotive; a movement in one direction.

[Here follows the text of Public No. 378, 75th Congress, approved, August 26, 1937, entitled "AN ACT To require certain common carriers by railroad to install and maintain certain appliances, methods, and systems intended to promote the safety of employees and travelers on railroads, and for other purposes," which may be found at 50 Stat. 835.]

[F. R. Doc. 39-1799; Filed, May 25, 1939; 12:05 p. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

PROCLAMATION OF THE SECRETARY OF AGRICULTURE WITH REGARD TO THE BASE PERIOD TO BE USED FOR THE PURPOSE OF A MARKETING AGREEMENT AND ORDER REGULATING THE HANDLING OF FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN THE STATE OF CALIFORNIA

By virtue of the authority vested in the Secretary of Agriculture of the United States by the provisions of Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agree-

ment Act of 1937, as amended, the undersigned hereby finds and proclaims that, with respect to fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, the purchasing power of such fruit during the pre-war base period, August 1909-July 1914, cannot be satisfactorily determined from available statistics of the Department of Agriculture for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of such fruit, but the purchasing power of such fruit, grown in the State of California, can be satisfactorily determined from available statistics of the Department of Agriculture for the post-war period, January 1, 1920, to December 31, 1928, both dates inclusive. The period January 1, 1920, to December 31, 1928, both dates inclusive, is, therefore, hereby declared and proclaimed to be the base period to be used in determining the purchasing power of the aforesaid fruit, grown in the State of California, for the purpose of the execution of a marketing agreement and the issuance of an order, regulating the handling of such fruit, pursuant to the provisions of said Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

In witness whereof, H. A. Wallace, Secretary of Agriculture of the United States, has executed this proclamation in duplicate and has hereunto set his hand and caused the official seal of the United States Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 24th day of May 1939.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-1796; Filed, May 25, 1939;
11:27 a. m.]

Food and Drug Administration.

IN THE MATTER OF THE PUBLIC HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE UPON THE BASIS OF WHICH A REGULATION MAY BE PROMULGATED, FIXING AND ESTABLISHING UNDER ITS COMMON OR USUAL NAME A REASONABLE DEFINITION AND STANDARD OF IDENTITY FOR EACH OF THE CANNED FOODS PREPARED FROM ONE OR ANY MIXTURE OF TWO OR MORE OF SAID VEGETABLES¹

NOTICE OF CERTIFICATION AND FILING OF TRANSCRIPT OF EVIDENCE AND OF TIME ALLOWED FOR FILING PROPOSED FINDINGS OF FACT, CONCLUSIONS, ARGUMENTS, OR BRIEFS

Notice is hereby given to all interested parties whose appearances were entered as matters of record that on Friday, May 26, 1939, there will be certified to and filed with the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, South Building, Independ-

ence Avenue, between 12th and 14th Streets SW., Washington, D. C., the transcript of evidence of the above-entitled hearing, held on April 24, 25, and 26, 1939, pursuant to notice of the Secretary of Agriculture which was published in the FEDERAL REGISTER issued March 24, 1939.

Further notice is hereby given that written arguments, proposed findings of fact, or both, together with suggestions and conclusions, based solely on the evidence adduced at the said hearing, may be filed with said Hearing Clerk not later than June 8, 1939.

This the 24th day of May 1939.

[SEAL] FRANK S. HASSELL,
Presiding Officer.

[F. R. Doc. 39-1798; Filed, May 25, 1939;
11:28 a. m.]

CIVIL AERONAUTICS AUTHORITY.

[Orders Serial No. 55]

[Docket No. 163]

IN THE MATTER OF THE APPLICATION OF PAN AMERICAN AIRWAYS COMPANY (OF DELAWARE)

ORDER AUTHORIZING ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

At a session of the Civil Aeronautics Authority held in the City of Washington, D. C., on the 17th day of May 1939.

Pan American Airways Company (of Delaware), having filed application for a certificate of public convenience and necessity to be issued under section 401 (d) (1) of the Civil Aeronautics Act of 1938, and a public hearing¹ thereon having been held before the Authority, and the Authority, upon consideration of the record of such proceedings, having issued its opinion containing its findings of fact, conclusions, and decision, which opinion is attached hereto and made a part hereof, and finding that its action in this matter is necessary pursuant to said opinion:

It is ordered, That there be issued to Pan American Airways Company (of Delaware) a certificate of public convenience and necessity authorizing it, subject to the provisions of such certificate, to engage in air transportation with respect to persons, property, and mail as follows:

(1) between the terminal point New York, New York, the intermediate points Horta, the Azores; and Lisbon, Portugal; and thence to the respective terminal points Marseilles, France and London, England (served from Southampton, England for seaplane operations and from Croydon, England for landplane operations); *Provided*: That Hamilton, Bermuda may be included as an intermediate point if and when required by weather conditions; and

(2) between the terminal point New York, New York, the intermediate points

Shediac, New Brunswick; Botwood, Newfoundland; and Foynes, Ireland; and the terminal point London, England (served from Southampton, England for seaplane operations and from Croydon, England for landplane operations);

except that during such times as New York, New York, is not usable as a terminal because of weather or climatic conditions, the holder shall use Baltimore, Maryland, as a terminal in lieu of New York, New York. *Provided*: That if a flight which shall have been commenced via the intermediate points listed under subparagraph (1) above or via the intermediate points listed under subparagraph (2) above, as the case may be, cannot be completed via the scheduled intermediate points because of weather conditions, such flight may proceed via one or more of the intermediate points listed under the other subparagraph.

It is further ordered, That the exercise of the privileges granted by said certificate shall be subject to the terms, conditions and limitations prescribed by Regulation 401-F-2² issued by the Authority on May 17, 1939, all amendments thereto, and such other terms, conditions and limitations as may from time to time be prescribed by the Authority.

It is further ordered, That said certificate shall be issued in the form attached hereto³ and shall be signed on behalf of the Authority by the Chairman of the Authority, and shall have affixed thereto the seal of the Authority attested by the Secretary. Said certificate shall be effective from the date of its approval by the President of the United States.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

THE WHITE HOUSE,
May 18, 1939.

Approved:

FRANKLIN D. ROOSEVELT

[F. R. Doc. 39-1802; Filed, May 25, 1939;
12:24 p. m.]

FOREIGN-TRADE ZONES BOARD.

NOTICE OF HEARING IN THE MATTER OF THE PROPOSAL BY THE CITY OF NEW YORK TO CONSTRUCT ADDITIONAL FACILITIES IN FOREIGN-TRADE ZONE NO. 1, STATETON, STATEN ISLAND, NEW YORK

MAY 24, 1939.

To Whom It May Concern:

A public hearing will be held by the Committee of Alternates of the Foreign-Trade Zones Board, beginning at 10 a. m. (Eastern Standard Time), Wednesday, June 7, 1939, in Rooms 2062-2064, Department of Commerce Building, Washington, D. C., on the proposal, by the City of New York, to construct additional facilities in Foreign-Trade Zone

¹ Listed in the notice and proposals of the Secretary of Agriculture published in the FEDERAL REGISTER, March 24, 1939 (4 F. R. 1320 DI).

² 4 F. R. 1247 DI.

³ 4 F. R. 2129 DI.

⁴ Filed as a part of the original document with the Division of the Federal Register, The National Archives.

No. 1, Stapleton, Staten Island, New York.

The principal additional facilities proposed are (1) an extension of the existing gate house, (2) a general utility building to have space for dry storage, cold storage, and merchandise manipulation, and (3) a vegetable oil and marine animal oil tank storage and pump system. General plans embodying all the proposals may be examined in the office of the Executive Secretary, Foreign-Trade Zones Board, Room 3054, Department of Commerce Building, Washington, D. C., or at the office of the United States District Engineer, Room 710, Army Building, 39 Whitehall Street, New York City.

All interested persons are requested to present any testimony having a bearing on whether or not the proposals are consistent with the pertinent law, regulations, and grant. Facts bearing on the adequacy of the structures and their proposed locations, from the viewpoint of protecting the customs revenues or goods that may be stored in the trade zone by other shippers, are particularly desired.

Witnesses may be accompanied and questioned by their attorneys but such representation is unnecessary. It is desired that witnesses shall be prepared to present written copies of their factual statements. When sworn to, such written statements may be introduced as exhibits.

Opportunity will be given for oral argument but no stenographic report will be made of argumentation, as distinguished from factual testimony. However, typewritten or printed briefs or statements of opinion will be accepted.

[SEAL] R. C. PATTERSON, Jr.,
Acting Secretary of Commerce,
Acting Chairman and Executive
Officer, Foreign-Trade
Zones Board.

[F. R. Doc. 39-1791; Filed, May 24, 1939;
3:51 p. m.]

INTERSTATE COMMERCE COMMISSION.

[No. 24092]

ORDER IN THE MATTER OF PROPOSED CHANGES IN RATES AND REGULATIONS AFFECTING FOURTH-CLASS MAIL MATTER

At a general session of the Interstate Commerce Commission, held at its office

in Washington, D. C., on the 23rd day of May, A. D. 1939

It appearing, That the Postmaster General, by application filed May 16, 1939, under Section 7 of the Act of May 29, 1928, 45 Stat. 941, states that he has found on experience that the existing regular fourth-class rates applicable on catalogs and similar printed advertising matter are such as to prevent the shipment of articles desirable and requests the Commission to consent to changes in the rates of postage on catalogs and similar printed advertising matter, in order to promote the service to the public; said proposals being as follows:

ZONES									
	Local	1st	2d	3d	4th	5th	6th	7th	8th
Rates:									
First pound.....	4¢	4¢	4¢	5¢	6¢	7¢	8¢	9¢	10¢
Each additional pound.....	1½¢	1¢	1¢	2¢	3¢	4¢	5¢	6¢	7¢

It is ordered, That an investigation be, and it is hereby instituted to determine whether the consent of the Commission should be given to the proposed changes in rates as above set forth.

It is further ordered, That notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Commission at Washington, D. C.

It is further ordered, That a copy of this order be served on the Postmaster General.

And it is further ordered, That this proceeding be, and it is hereby, assigned for hearing at the office of the Commission in Washington, D. C., on the 15th day of June, 1939, at 10 o'clock, A. M., before Examiner Mullen.

By the Commission.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 39-1800; Filed, May 25, 1939;
12:05 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 347]

AMENDMENT OF PRIOR ALLOCATIONS

MAY 19, 1939.

I hereby amend Administrative Order No. 328, dated March 22, 1939 by substituting the letters "S.E." for "T.E.T.R. &G.," so the project designation Colorado R9021A1 T.E.T.R.&G. will read Colorado R9021A1 S.E.

I hereby amend Administrative Order No. 304, dated October 26, 1938, by rescinding the allocation of \$237,000 therein made for Ohio R9091G1 Preble.

I hereby amend Administrative Order No. 334, dated April 12, 1939, by reducing the allocation of \$100,000 therein made for Virginia R9011E1 Rockingham by \$12,000, so that the reduced allocation shall be \$88,000.

I hereby amend Administrative Order No. 289, dated September 12, 1938, by reducing the allocation of \$300,000 therein made for Virginia R9034A1 Lee by \$150,000, so that the reduced allocation shall be \$150,000.

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 39-1792; Filed, May 25, 1939;
9:44 a. m.]

[Administrative Order No. 348]

ALLOCATION OF FUNDS FOR LOANS

MAY 19, 1939.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation	Amount
Alabama R9018W1 Cullman.....	\$10,000
Alabama R9029W1 Greene.....	5,000
Florida R9016W3 Sumter.....	10,000
Georgia R9086W2 Seminole.....	10,000
Idaho R9017W1 Fremont.....	3,000
Illinois R9036W1 Jasper.....	3,000
Iowa R9052W1 Howard.....	5,000
Montana R9010W1 Madison.....	5,000
Nebraska R9062W1 Seward.....	10,000
Nebraska R9071W1 Madison.....	10,000
North Carolina R9039W1 Union.....	5,000
Oklahoma R9006W1 Caddo.....	10,000
Oklahoma R9022W1 Cotton.....	10,000
Oklahoma R9025W1 Rogers.....	5,000
Texas R9083W1 Fisher.....	6,000
Texas R9084W1 Hall.....	3,000
Texas R9087W1 Karnes.....	5,000
Texas R9088W1 Nueces.....	6,000
Texas R9091W1 Patricio.....	5,000
Wyoming R9005W1 Big Horn.....	10,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 39-1793; Filed, May 25, 1939;
9:44 a. m.]

